

EXHIBIT B

REESE, ET AL v. CNH GLOBAL N.V., ET AL

JOHN F. STAHL

January 14, 2014

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<p>1 Q. And who are they? When you say 2 "colleagues," are they partners with you at Towers 3 Watson or colleagues? 4 A. We don't have partners, but they are -- 5 Peter is one of the senior actuaries in the 6 retirement practice who had done some of the 7 projections and the OPEB valuation that we used in 8 Exhibits 1 through 6, maybe more specifically 5 and 9 6 that are in the expert testimony report. 10 And Rebecca is also an actuary in the 11 retirement practice who worked with him in that 12 regard. I believe she also handled some of the 13 billing, and Nick Rosales is an analyst in the 14 health care practice who did some of the work and 15 helped produce the exhibits. 16 Q. So these are all people who worked -- are 17 they all employees of Towers Watson? 18 A. Yes, correct. 19 Q. And they're people that assisted you in 20 the work you did in your expert report? 21 A. That's correct. 22 Q. Was anybody else involved in assisting you 23 in the work that went into your expert report? 24 A. There was one additional associate, Rob 25 DiMartino, who did some of the work in assembling</p>	<p>1 anything. 2 MS. BRAULT: I am going to have this marked as 3 Exhibit No. 1. 4 (Whereupon, STAHL Deposition 5 Exhibit 1 was marked for 6 identification.) 7 BY MS. BRAULT: 8 Q. This was the notice of deposition. 9 Now, looking at Exhibit No. 1, have you 10 seen this notice before? 11 A. Yes, I believe I have. 12 Q. The original notice we have, we were going 13 to take your deposition at, I think, McCorkle Court 14 Reporters, and there was a change in the location 15 which was reflected in the re-notice, which is 16 Exhibit No. 2. 17 (Whereupon, STAHL Deposition 18 Exhibit 2 was marked for 19 identification.) 20 THE WITNESS: Okay. 21 BY MS. BRAULT: 22 Q. But, otherwise, the notice with respect to 23 documents you were required to produce are the 24 same; would you agree? 25 A. Yes.</p>
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<p>1 -- some of the work on a prescription drug data, 2 and he worked briefly with one of our prescription 3 drug experts, Katie Asch, Asch. 4 Q. I'm sorry. Katie, you said? 5 A. Yes. 6 Q. A-s-c-h? 7 A. Correct, in putting together some of the 8 prescription drug exhibits. 9 Q. Anyone else that assisted you in the work 10 that went into your report? 11 A. To my knowledge, no, but it's possible 12 that there were some other analysts that Nick 13 directed to pull some exhibits together, but 14 I don't believe there was a significant role that 15 they played. 16 Q. Did you read any transcripts from any of 17 the depositions that have already occurred in this 18 case? 19 A. No. 20 Q. You said that you looked at your report 21 and the documents that were produced pursuant to 22 the subpoena? 23 A. Correct. 24 Q. Anything else that you looked at? 25 A. To my knowledge, no. No, I can't think of</p>	<p>1 Q. And did you bring any documents? 2 A. I did. 3 Q. Okay. So you just handed me two pieces of 4 paper. Was there anything else that you brought 5 with you? 6 A. No. 7 Q. Okay. And what are these two pieces of 8 paper that you handed to me? 9 A. They are time records indicating time 10 spent by myself or assistants as a retained expert 11 in the matter and other billing records related to 12 the expert testimony or expert report. 13 Q. What does "WIP to bill" mean? 14 A. Work in progress. So there is work where 15 there has been hours billed to it, but they haven't 16 actually been billed to the client yet. 17 Q. Does this indicate the dates on which the 18 work was done? 19 A. I don't have it in front of me. 20 Could I see? 21 I apologize for the small print. I can't 22 read it either. 23 This particular exhibit does not. We 24 could produce such an exhibit, but this is a 25 summary exhibit.</p>

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<p style="text-align: right;">Page 13</p> <p>1 MS. BRAULT: How many copies do we have of 2 this? 3 MS. CAPOTOSTO: Two. 4 MS. BRAULT: Can I keep one and have one 5 marked? 6 MS. CAPOTOSTO: Sure. 7 MS. BRAULT: We might want to staple them 8 together. 9 (Whereupon, STAHL Deposition 10 Exhibit 3 was marked for 11 identification.) 12 BY MS. BRAULT: 13 Q. So maybe you can help me understand this 14 from the second page. This is a spreadsheet? 15 A. Uh-huh. 16 Q. Do you know -- I'm looking at the path 17 name for this document. It looks like it was part 18 of a "U" drive file that's under 50412. Do you 19 know what that is? 50412. 20 A. It's the client code. 21 Q. Who is the client? 22 A. CNH. 23 Q. And then the next thing it says is 13. Is 24 that the year 2013? 25 A. Yes, correct.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. So like Q467 or T882? 2 A. No. 3 Do you see in the associate comments? 4 Each one of those comments say Reese Group 5 or has the word Reese in there at some point. So 6 that's how the bill preparer would have known that 7 these were costs allocated to this particular 8 project. 9 Q. Okay. And this indicates what the hours 10 were that they spent? 11 A. Yes. 12 Q. But not when they spent it? 13 A. Correct. 14 There is another report that could be 15 produced that shows that level of detail. 16 Q. So it says "Project LOB" at the very end. 17 What is that? 18 A. LOB stands for line of business. So that 19 indicates to me that this is being consolidated up 20 through the retirement practice as opposed to one 21 of our other practices. 22 Q. Okay. And your time is not on here, 23 correct? 24 A. That is correct. 25 Q. Where is your time reflected?</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. And then bills would be? 2 A. It's where billing records are stored. 3 Q. And then the part of the billing records 4 that this would fall under would be under 5 retirement and then under Reese? 6 A. That's correct. 7 Q. Fair to say that you have other billing 8 that you would sent to CNH under retirement? 9 A. I would say if I do -- I personally am 10 almost never involved in sending bills directly to 11 the client but as a company, yes. 12 Q. You do more work for them than just -- 13 A. Correct. 14 Q. -- what expert consulting entails, 15 correct? 16 A. Correct. Sorry. 17 Q. That's okay. Everybody talks 18 conversationally, and sometimes it doesn't work. 19 So this shows, if I am looking at it 20 correctly, a project number. Is the project number 21 the Reese case? 22 A. No, I believe that is a more general 23 billing code, and the way we would identify whether 24 it's a Reese case or Reese group cost would have 25 been in the associate's comment field.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I believe this time -- and I could be 2 wrong -- but I believe -- no, looking at the 3 comments, it's fairly clear that this has to do 4 with providing -- the document was prepared towards 5 the end of 2013, towards the very end of 2013, that 6 went through all of the documents that were 7 prepared electronically and provided a written 8 description of the documents and what questions 9 they were intended to be responsive to in terms of 10 the document request that we received, and this 11 document is only taking into account time that's 12 gone through a certain part in our system. I was 13 out of the office at that time, and I didn't end up 14 reviewing that until January 2. So I believe there 15 may be another maybe two hours of my time. 16 Q. Well, where is your time reflected at all? 17 A. This particular time in this particular 18 summary, it's -- I didn't have any time in the 19 period of time covered by this, this summary. 20 Q. Okay. Did you -- okay. So the document 21 request asks for time records indicating the time 22 spent by Mr. Stahl or his assistants as a retained 23 expert in this matter, any and all billing records 24 indicating the total consideration for work as an 25 expert in this matter.</p>

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<p style="text-align: right;">Page 21</p> <p>1 MS. BRAULT: No, I am going to reference it by 2 the Bates stamp number that I was given in the 3 case. It's too large to print out and enter as an 4 exhibit. Each particular document may not be. I'm 5 identifying it by the Bates number that it was 6 given to me by. 7 MS. CAPOTOSTO: CNH objects to asking the 8 witness about documents to the extent that they are 9 not entered as exhibits. We feel they need to be 10 entered into the record so that they can travel 11 with the transcript. In the future to the extent 12 you are going to continue to do this throughout the 13 deposition, CNH has a standing objection. 14 MS. BRAULT: I'll give you a standing 15 objection. Like I said, if you want to burn a copy 16 and add it to the transcript, I don't really have a 17 problem with that except I don't want to have to 18 pay for copies of thousands of documents that might 19 get printed out as a result of that. So that's up 20 to you. 21 BY MS. BRAULT: 22 Q. Okay. So looking at this, this looks like 23 it's billing records. Can you tell when those 24 billing -- when these are from? When the time was 25 spent?</p>	<p style="text-align: right;">Page 23</p> <p>1 see what the wording is. It appears there is a 2 write-off is what that line is indicating. 3 Q. What's a write-off? 4 A. In some cases there may be time entered 5 into the system that for one reason or another we 6 don't think should be or could be billed to the 7 client. 8 Q. It was adjusted? 9 A. It was adjusted downwards. 10 Q. So the total was adjusted by some \$3,300, 11 and then the total, it looks like, that's owed 12 under this bill was 18,488? 13 A. Yes. 14 Q. And this doesn't reflect what was paid, 15 correct? 16 A. It does not. 17 Q. Do you know if you're paid? 18 A. I do not know. 19 Q. So when I received this data, it came on a 20 disc, I believe, and so the first document is 21 entitled STAHL00001C_2010_2013_Utilization_Analyzed, and then 22 it looks like the sub-files after that, which are 23 marked 2, 3, 4, and 5, were all the individual 24 years that made up that summary of the 2010-2013 25 data?</p>
<p style="text-align: right;">Page 22</p> <p>1 A. No. 2 Q. And it looks like there was a lot of time 3 spent by your associates as well as yourself? 4 A. Yes. 5 Q. Who is C. Alton Smith? 6 A. He's an administrative assistant. 7 Q. This would clear up the spelling of 8 Gasiewski. 9 A. Yes. 10 Q. G-a-s-i-e-w-s-k-i. 11 Besides this document and the document you 12 gave me today, are you aware of any other billing 13 records that we haven't been provided that reflects 14 work on this case? 15 A. I'm not aware of them but that is not 16 indicative of anything other than the fact that I 17 don't do -- I'm not really responsible for billing. 18 Q. Tell me if I'm wrong, but it looks like 19 the total amount of the billing was \$19,827.50 some 20 cents? 21 A. That's what the exhibit shows. 22 Q. And that there has been some amount of 23 that paid? 24 A. That's what it appears to be showing. If 25 you could scroll over a little to the left, I could</p>	<p style="text-align: right;">Page 24</p> <p>1 A. That's what it looks like, I agree. 2 Q. And then after that there is a Section 6, 3 7, 8, 9, 10, 11, 12 and 13 all deal with 4 prescription drug benefits including the top 25; is 5 that right? 6 A. I can't really see. 7 Q. I don't know if that's -- let me -- 8 A. I believe they are prescription drug 9 benefit files, the over and under age 65 report and 10 the ESI report. 11 Q. What do you mean by "ESI"? 12 A. Express Script International. They handle 13 the prescription drug benefit for CNH. 14 Q. I am going to open what's been marked as 15 STAHL00006C_3945_UAW Grandfathered Over & Under 65 16 report, hopefully. 17 So when you open the file, the first thing 18 that comes up is the cost summary, correct? 19 A. Correct. 20 Q. And there is a cover, which is showing 21 that it's an Express Scripts report? 22 A. Correct. 23 Q. So did they prepare the cost summary? 24 A. No, I believe the cost summary would have 25 been something that we added to the report.</p>

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<p>1 analysis, but in some cases they may wish to</p> <p>2 identify which of those are Medicare Part D covered</p> <p>3 claims or not.</p> <p>4 Q. Well, are they all prescription drug</p> <p>5 claims?</p> <p>6 A. They are all prescription drug claims.</p> <p>7 There are some drugs that Medicare Part D doesn't</p> <p>8 cover.</p> <p>9 Q. So they isolated those drugs that Medicare</p> <p>10 Part D does not cover?</p> <p>11 A. Right.</p> <p>12 Q. So you would acknowledge that there are</p> <p>13 claims that are covered under the current over 65</p> <p>14 or Medicare-eligible current plan retirees that</p> <p>15 would not be covered by Medicare Part D?</p> <p>16 A. Yes.</p> <p>17 Q. So Medicare Part D provides less coverage</p> <p>18 than the current coverage for over 65 for</p> <p>19 Medicare-eligible retirees in the current plan?</p> <p>20 A. It does not appear to cover all of the</p> <p>21 drugs.</p> <p>22 Q. Then the same sort of analysis, it looks</p> <p>23 like, was done in the under 65 group, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And do you know if there was any</p>	<p>1 why this particular summary that's under the Cost</p> <p>2 Summary tab of STAHL 6 is there?</p> <p>3 A. It likely was something we did to check</p> <p>4 the data to see if it matched what's in the Summary</p> <p>5 tab. I mean when we use the data, we would</p> <p>6 probably do a summing up of the numbers as opposed</p> <p>7 to using their summation.</p> <p>8 Q. And when you say -- so it would make</p> <p>9 sense, since under the current plan, whether you</p> <p>10 are over or under 65, you are still in the same</p> <p>11 drug plan. So it would be a very similar</p> <p>12 percentage of plan cost, correct?</p> <p>13 A. That would make sense, yes.</p> <p>14 Q. Okay. And is this -- so this amount for</p> <p>15 the under 65 group, 38,451,331, is that the amount</p> <p>16 that CNH paid?</p> <p>17 A. Yes, that would have been the amount that</p> <p>18 CNH paid.</p> <p>19 Q. And the same would be true for the over 65</p> <p>20 that CNH paid 22,811,662?</p> <p>21 A. Yes.</p> <p>22 Q. I wanted to ask you about this pivot</p> <p>23 table. That's something that you use to mine the</p> <p>24 data from the Express Scripts report?</p> <p>25 A. That's correct.</p>
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<p>1 difference in terms of data that was collected for</p> <p>2 those groups, in other words, differences in the</p> <p>3 columns?</p> <p>4 A. No, I don't.</p> <p>5 Q. It looks like there is no discussion of</p> <p>6 the Medicare Part D, presumably, because these</p> <p>7 folks wouldn't be eligible?</p> <p>8 A. Correct.</p> <p>9 Q. But we don't know if some of the drugs</p> <p>10 covered by the pre-65 would not be covered under</p> <p>11 Medicare Part D in the future?</p> <p>12 A. That's correct.</p> <p>13 Q. And then this is the summary. There is a</p> <p>14 lot of -- I'm sure that there is a technical word</p> <p>15 for what happens when these cells are too small to</p> <p>16 put the numbers in, but I don't know what the term</p> <p>17 is.</p> <p>18 A. Well, field overflow probably but you</p> <p>19 could expand that. If you expand the columns,</p> <p>20 double click there, they should appear.</p> <p>21 There you go.</p> <p>22 Q. And is this summary different from the</p> <p>23 first summary?</p> <p>24 The first summary may have been -- I guess</p> <p>25 it's called the Cost Summary versus -- do you know</p>	<p>1 Q. So what you've done is all of the numbers</p> <p>2 or what your people, at least, have done is all of</p> <p>3 the numbers that were extracted came out of the</p> <p>4 data?</p> <p>5 A. Correct.</p> <p>6 Q. And the data is indirectly from Express</p> <p>7 Scripts, not you?</p> <p>8 A. Correct.</p> <p>9 Q. And then correct me if I'm wrong but</p> <p>10 I think the next few of these Excel spreadsheets,</p> <p>11 which are marked as 7, 8 and 9, and using that as a</p> <p>12 STAHL00007, 8, and 9 in the consecutive Bates</p> <p>13 stamped documents. So it looks like these are, for</p> <p>14 example, from 2009, and the next one would be 2010,</p> <p>15 and then the next one would be 2011. Does that</p> <p>16 make sense?</p> <p>17 A. Yes.</p> <p>18 Q. I just want to make sure I understand</p> <p>19 what's in this -- on this disc.</p> <p>20 So now we are down to the Power Point</p> <p>21 slides that have the top 25 prescription drugs?</p> <p>22 A. Yes.</p> <p>23 MS. CAPOTOSTO: This is STAHL 10?</p> <p>24 MS. BRAULT: If you just look up here at the</p> <p>25 very top, it's STAHL00010C_3945, and there is three</p>

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<p style="text-align: right;">Page 33</p> <p>1 Power Point slides in a row -- I am sorry -- four 2 Power Point slides in a row and they are 10, 11, 12 3 and 13. 4 BY MS. BRAULT: 5 Q. Do you know what the difference is between 6 each of these? 7 A. Aside from the -- I believe the difference 8 is just the year, the period of time covered by 9 each. 10 Q. So No. 11, for example, is the year 2010, 11 it looks like? 12 A. Yes. 13 Q. And then so this one should be 2012, 14 right? 15 MS. CAPOTOSTO: STAHL000013. 16 MS. BRAULT: This is 13. 17 BY MS. BRAULT: 18 Q. And that is 2012? 19 A. Correct. 20 Q. And this is a slide from data that you 21 didn't prepare, correct? 22 A. Correct. It's prepared by Express 23 Scripts. 24 Q. Did you put that data into any other form? 25 A. Yes, I believe there is another Excel file</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. It looks like that was for 2009. That was 2 No. 00014. 3 This one should be for 2010 for that 4 group? 5 MS. CAPOTOSTO: STAHL00015? 6 BY MS. BRAULT: 7 Q. This says over and under 65 report, and it 8 gives from 2010 -- well, January to December 9 of 2010. So this would be the same report but for 10 the next year. We are looking at Exhibit STAHL 15 11 at this point? 12 A. Correct. 13 Q. You didn't prepare this, correct? You 14 just received this from Express Scripts? 15 A. Correct. Those are the raw data reports 16 received from Express Scripts. 17 Q. So if we are correct -- this is 00011. 18 This is 00012. This would be 2013, and I'm looking 19 at STAHL00018. 20 No, it's not. 21 It looks like it was 2009 to current. 22 A. Correct. So that would have been 23 equivalent to all of the data lumped together into 24 one overall report. 25 Q. And this is just on prescription drug cost</p>
<p style="text-align: right;">Page 34</p> <p>1 that has that data entered into it. 2 Q. Okay. The next document, it's 00014, is 3 another report, and this is over and under 65. Do 4 you know what kind of report this is? 5 A. I believe that is a report that's very 6 similar to the reports you saw earlier. The main 7 difference is these reports would be for the 8 non-grandfathered group. 9 Q. And this one -- how do you know when it's 10 the non-grandfathered group? 11 A. One easy way to tell in this case is if 12 you look at the over -- first of all, the numbers 13 are a lot smaller, so much smaller group. In this 14 case I also know that the newer group does not have 15 drug coverage after age 65. You could see at the 16 top there the over age 65. I couldn't answer why 17 there are any claims in that group, but there is a 18 very small number of claims in that group. 19 Q. That was to be one of my questions is why 20 would there be claims in that group? 21 A. I honestly couldn't tell you why there 22 would be any claims in that group. If there was 23 any substantial amount of claims, we probably would 24 have questioned it, but given the small number, 25 didn't seem to be a significant item.</p>	<p style="text-align: right;">Page 36</p> <p>1 for pre-65, correct? 2 A. Correct. 3 Q. So it shows for that period of time the 4 percent the plan paid was 79.58 percent? 5 A. Correct. 6 Q. So it was significantly lower than the 7 grandfathered group that was pre-65 prescription 8 cost in terms of percentage? 9 A. In terms of percentage, it is 97 percent 10 versus 80 percent rounding. 11 Q. Would you agree that that's significantly 12 lower? 13 A. I would agree it's lower. 14 Q. Now, the next item here is -- 15 A. It's a big file. 16 Q. I might even just crash the whole system. 17 I'm not going to do it. I'll go there last when we 18 can afford to crash. 19 Let me just ask you, so STAHL00019 and 20 00020C are very large Excel spreadsheets that 21 include documents, at least the clue from the 22 title, is from Anthem, which would be Blue 23 Cross/Blue Shield, correct? 24 A. Correct. 25 Q. What's your understanding of what's</p>

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<p style="text-align: right;">Page 37</p> <p>1 contained in those files?</p> <p>2 A. That would be what you might refer to as</p> <p>3 the claim database where we have taken -- there are</p> <p>4 a number of files, if you go further on, that have</p> <p>5 a suffix of text, dot txt, that are basically raw</p> <p>6 data files, by which I mean they are not Excel.</p> <p>7 They are not Power Point. They haven't been</p> <p>8 processed at all. They are just files of numbers</p> <p>9 and letters.</p> <p>10 Those were processed into a form, which we</p> <p>11 could summarize into an Excel file and then analyze</p> <p>12 that data. So those -- these would be sort of the</p> <p>13 databases that we looked at when we were looking at</p> <p>14 the claims data.</p> <p>15 Q. And I'm going to scroll up so that that</p> <p>16 one is at the top of this list here and ask you --</p> <p>17 so the text files would be STAHL00031, 32, 33, 34,</p> <p>18 35, 36, 37, 38 and 39?</p> <p>19 A. Correct.</p> <p>20 Q. And those text files, I am going to pull</p> <p>21 one up just so that we can put on the record what</p> <p>22 it looks like.</p> <p>23 Just for the record this computer file is</p> <p>24 in notepad --</p> <p>25 MS. CAPOTOSTO: It is STAHL00039.</p>	<p style="text-align: right;">Page 39</p> <p>1 indicate in the formula field that the numbers came</p> <p>2 from the Anthem summary, correct?</p> <p>3 A. Correct.</p> <p>4 MS. CAPOTOSTO: You are clicking on D7 in the</p> <p>5 summary?</p> <p>6 MS. BRAULT: Yes.</p> <p>7 BY MS. BRAULT:</p> <p>8 Q. But I guess my question is is there any</p> <p>9 number in this summary that doesn't come from</p> <p>10 either a formula or the Anthem data?</p> <p>11 A. To my knowledge, we did our best to try --</p> <p>12 if we had a code on something like this, we would</p> <p>13 have tried to provide every file that fed into it.</p> <p>14 So I don't believe so.</p> <p>15 Q. And the cost of benefit is something you</p> <p>16 could tell from the Anthem data, correct?</p> <p>17 A. That's correct.</p> <p>18 It's not -- that COB in that context</p> <p>19 doesn't stand for cost of benefit. It stands for</p> <p>20 other coverage that they might be receiving.</p> <p>21 Q. Okay. And then so the patient paid number</p> <p>22 is what came out of cost for the patient?</p> <p>23 A. That's what they paid out of pocket, their</p> <p>24 deductibles, co-insurance, copay.</p> <p>25 Q. And then the amount that the plan paid</p>
<p style="text-align: right;">Page 38</p> <p>1 BY MS. BRAULT:</p> <p>2 Q. So this doesn't even have labels, correct,</p> <p>3 on the data?</p> <p>4 A. That's correct. There should be another</p> <p>5 file on here that gives you a file layout:</p> <p>6 Q. Like a key?</p> <p>7 A. Correct.</p> <p>8 Q. And this was data that was provided to</p> <p>9 you?</p> <p>10 A. Correct.</p> <p>11 Q. And that was from Anthem?</p> <p>12 A. Yes.</p> <p>13 Q. Just for the record, STAHL00031 through 39</p> <p>14 are the Anthem files that were provided to you at</p> <p>15 it looks like more or less six-month intervals</p> <p>16 probably because of the size of the data?</p> <p>17 A. That's exactly right.</p> <p>18 Q. The next document, 40, is a summary of UAW</p> <p>19 medical and prescription claims?</p> <p>20 A. Correct.</p> <p>21 Q. And that part is just the summary,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. And this would have been what -- these</p> <p>25 numbers -- I am just going to go click on one --</p>	<p style="text-align: right;">Page 40</p> <p>1 came directly from the Anthem data?</p> <p>2 A. Correct.</p> <p>3 In fact, all the data on that file should</p> <p>4 have been from the Anthem file.</p> <p>5 Q. Without going through each one, I mean</p> <p>6 just sort of randomly picking them, but that's your</p> <p>7 understanding, there isn't anything that doesn't</p> <p>8 come from the Anthem file?</p> <p>9 A. Anthem or the prescription drug would have</p> <p>10 been ESI, a claim summary from them.</p> <p>11 Q. The Express Scripts?</p> <p>12 A. Correct.</p> <p>13 Q. And then the rest would come through a</p> <p>14 formula?</p> <p>15 A. Correct.</p> <p>16 Q. And just come back to this later but these</p> <p>17 were your calculations in the summary of what the</p> <p>18 plan paid percentage-wise and what the</p> <p>19 participant -- I'm just going to hide these for now</p> <p>20 so we can look at these.</p> <p>21 So we've got the grandfathered,</p> <p>22 non-grandfathered and then we have, for 2008, the</p> <p>23 amounts that were paid, and we can compare them,</p> <p>24 right?</p> <p>25 A. Correct.</p>

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<p>1 MS. CAPOTOSTO: Row 33?</p> <p>2 MS. BRAULT: 35, I think.</p> <p>3 BY MS. BRAULT:</p> <p>4 Q. Well, 35 is 2008 and then it goes up to</p> <p>5 2012, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Are these the numbers you use for your</p> <p>8 comparison in your report?</p> <p>9 A. I believe those numbers appear --</p> <p>10 I couldn't recall off the top of my head which</p> <p>11 exhibit, but I believe those might be in Exhibits 1</p> <p>12 through 4 that are in the report.</p> <p>13 Q. I'm now opening 41C and this looks like it</p> <p>14 was Exhibit 1.</p> <p>15 A. Yes.</p> <p>16 Q. So this would be the UAW retirees pre-65</p> <p>17 medical and prescription costs in the aggregate and</p> <p>18 then per adult member?</p> <p>19 A. Correct.</p> <p>20 Q. And it's split between the grandfathered</p> <p>21 and the non-grandfathered?</p> <p>22 A. Yes.</p> <p>23 Q. So this would have been something that you</p> <p>24 would have made by reference to the previous</p> <p>25 exhibit?</p>	<p>1 Q. Does it make much of a difference in terms</p> <p>2 of your calculation?</p> <p>3 A. It did appear in the -- I believe in the</p> <p>4 projections in five and six, there may be a line</p> <p>5 there that shows what the excise tax is. I'm</p> <p>6 not --</p> <p>7 Q. Do you have a copy of your report in front</p> <p>8 of you?</p> <p>9 A. I do.</p> <p>10 Q. Maybe you could tell me if it does appear</p> <p>11 there.</p> <p>12 A. I can look and see.</p> <p>13 (Whereupon, STAHL Deposition</p> <p>14 Exhibit 6 was marked for</p> <p>15 identification.)</p> <p>16 BY MS. BRAULT:</p> <p>17 Q. That's Exhibit 6.</p> <p>18 A. It's not separately identified in here as</p> <p>19 appearing in here, but I believe it is identified</p> <p>20 as having been included.</p> <p>21 Q. How is it included?</p> <p>22 A. It would have been included in the --</p> <p>23 either in the pre-65 or post -- in the medical --</p> <p>24 I'm presuming it was included in the medical plan</p> <p>25 cost as opposed to the prescription drug plan cost</p>
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<p>1 A. Correct.</p> <p>2 Q. Okay. And this is all work that you</p> <p>3 prepared?</p> <p>4 A. Not that I prepared it myself, Nick or</p> <p>5 someone working for me prepared it, and I reviewed</p> <p>6 it.</p> <p>7 Q. Can you tell me what this document is?</p> <p>8 This is Exhibit 42.</p> <p>9 A. I believe it's a document that we prepared</p> <p>10 in order to try and be responsive and provide all</p> <p>11 the documents that we looked at when we were doing</p> <p>12 the report or the projections. This doesn't</p> <p>13 directly find its way into the report.</p> <p>14 Q. What is it?</p> <p>15 A. It is a projection of -- it's a document</p> <p>16 that tries to calculate what CNH's potential</p> <p>17 liability is under the excise tax that is a part of</p> <p>18 Health Care Reform. It's also referred to</p> <p>19 generically as a Cadillac tax on high-cost plans.</p> <p>20 Q. And were you able to determine what the</p> <p>21 tax would be?</p> <p>22 A. We did make a determination of a number to</p> <p>23 include in their OPEB report. To be honest, I'm</p> <p>24 not sure if that appears in this particular</p> <p>25 document or not.</p>	<p>1 line.</p> <p>2 Q. And cost to whom?</p> <p>3 A. Cost to CNH, not as an out-of-pocket cost.</p> <p>4 Q. And do you know how it's labeled as a cost</p> <p>5 or is it just entered as a cost?</p> <p>6 A. It would have been just included in the</p> <p>7 total cost. It's not specifically called out.</p> <p>8 Q. And do you know who calculated this?</p> <p>9 A. Those would have been calculated by Peter</p> <p>10 and Rebecca locally.</p> <p>11 Q. Do you know how they went about that?</p> <p>12 A. Sure.</p> <p>13 They would use the calculation -- do you</p> <p>14 see the last eight tabs or so are output from our</p> <p>15 valuation projection program. They show total cash</p> <p>16 payments and total counts of retirees and covered</p> <p>17 spouses.</p> <p>18 MS. CAPOTOSTO: You are now looking at</p> <p>19 STAHL00042.</p> <p>20 MS. BRAULT: Yes.</p> <p>21 BY MS. BRAULT:</p> <p>22 Q. There are a lot of tabs, though, correct?</p> <p>23 A. Correct.</p> <p>24 They are segregated into costs for what we</p> <p>25 call beneficiaries, which would be the BENY there</p>

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<p style="text-align: right;">Page 49</p> <p>1 case means a covered group. This is an employee 2 and spouse are both covered. They are both alive, 3 and they are both covered. 4 And single, that would mean there was a 5 single retiree covered, and a spouse in this case 6 would mean a surviving spouse is covered. 7 Q. And the total would be the total of all 8 three? 9 A. Correct. 10 Q. Okay. So based upon your numbers in 2032, 11 which is the last year that we sort of went and did 12 the projections of cost to the plan, there would be 13 approximately 15 -- well, 1589.2 people or 14 contracts? 15 A. Contracts, correct, and that would be -- 16 although there may well be, if you scroll down 17 to -- and this is the post-65. I don't know that 18 there would be in pre-65. There might be a very 19 few pre-65 people still covered. 20 Q. And if I want to know that, I can move 21 this way? 22 So pre-65 are in what? 23 A. On the base one tab would be the pre-65. 24 Q. Okay. And in 2032 it's showing maybe 17 25 people?</p>	<p style="text-align: right;">Page 51</p> <p>1 when you pull it up. 2 So this would be something that Robert 3 DiMartino would have authored? 4 A. Correct. 5 Q. Would this be correct that he would have 6 made that on January 17, 2013, do you think? 7 A. It might have been the year it was saved 8 in the -- we consolidated all of these together. 9 I guess it's possible. I'm sorry. I had the year 10 wrong. I was originally thinking it says 2014, 11 which would be possible, but it's possible that 12 that would have been the date he saved it. 13 Q. You don't know, though, because you 14 weren't the one who authored it? 15 A. I didn't author this particular document. 16 I would have reviewed the exhibits that were 17 created by this document. 18 Q. And then the tabs here show plan costs for 19 certain drugs? 20 A. Correct. 21 Q. Do you know where the data came from for 22 the plan cost? 23 A. Those came from those Power Point exhibits 24 that are up -- were produced by Express Scripts. 25 Q. So somebody just took and typed in those?</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Correct. 2 Q. Okay. So by far and away, the majority of 3 the plan participants are going to be post-65 by 4 2032? 5 A. Correct. And it's a closed group. 6 Now, just for completeness, if you tab 7 down to base 11, there are also individuals who are 8 identified as surviving spouses at the beginning of 9 the valuation, and they appear on these tabs. So 10 there is a few more people that have to be added in 11 if you wanted to get a complete count. 12 Q. But this is -- by 2029 that's the end of 13 them? 14 A. That's the end of the pre-65 group there, 15 and if you tab down to the next tab -- 16 Q. What would the next tab be? 17 A. I think it's base 13. 18 And then you'll see there is some more 19 that are still -- depending on your point of view, 20 a handful or a number of, hundred over 65 at that 21 point in time. 22 Q. The next exhibit is STAHL00043C, which is 23 another Excel spreadsheet. Just, for the record, I 24 can see who the authors are here by looking at 25 the -- there is a ribbon. It just reads the data</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Correct. 2 Q. And that was true for 2010, 2011 and 2012? 3 A. Correct. 4 Q. And then they are just added up basically 5 in the summary? 6 A. Correct, and then consolidated up in the 7 exhibit here. 8 Q. Now, did you look at any of the actual 9 claims data? 10 A. When you say "actual claims data," I'm not 11 sure what you are referring to. 12 Q. This shows how much the plan paid for 13 claims for drugs. Did you see the specific data 14 that showed the drug and the cost? 15 A. Those would have been in the Power Point 16 exhibits. 17 Q. And I think you said those came directly 18 from -- 19 A. Those came directly from Express Scripts. 20 They were transferred by me into this exhibit. 21 Q. And this, again, is exhibit Bates stamped 22 43. 23 This is the field descriptions. Looking 24 at 44, this is that key for the documents that are 25 expressed in Notebook?</p>

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<p style="text-align: right;">Page 53</p> <p>1 A. Correct, yes.</p> <p>2 Q. And some Anthem files?</p> <p>3 A. Yes, I think this is the Anthem one. I am</p> <p>4 not sure if there was one that was produced for</p> <p>5 Express Scripts too, but my guess would be this is</p> <p>6 the Anthem one.</p> <p>7 Q. Here is a document that's called</p> <p>8 Historical Comparison Data?</p> <p>9 A. Correct.</p> <p>10 Q. Which is marked as 45.</p> <p>11 What is this document?</p> <p>12 A. In the expert report, we -- as you go</p> <p>13 through the process that we use to sort of validate</p> <p>14 the data, one of the things we did to sort of test</p> <p>15 the integrity of the data with the detailed claim</p> <p>16 files that we got from Anthem for this analysis,</p> <p>17 was to test them against other data that we</p> <p>18 previously received from Anthem that we used for</p> <p>19 different purposes. So we went back and looked at</p> <p>20 the claims we got from them previously, and we made</p> <p>21 reference to testing them in the report and the</p> <p>22 document request asked for that document, and this</p> <p>23 is in reference to that.</p> <p>24 Q. Were you satisfied with the way that the</p> <p>25 data meshed?</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. Do you know who, I mean, authored it?</p> <p>2 A. I do not know off the top of my head.</p> <p>3 Q. What is IBNR model?</p> <p>4 A. IBNR stands for incurred but not reported.</p> <p>5 In other words, we might think ultimately -- it's a</p> <p>6 way of getting at what we think the ultimate claims</p> <p>7 that will be incurred in a period will be before</p> <p>8 those claims are completely paid out.</p> <p>9 Would you like more explanation on the</p> <p>10 exhibit itself?</p> <p>11 Q. Yes, please.</p> <p>12 A. Sure.</p> <p>13 If you look at -- if you scroll over so</p> <p>14 you can see Column B as well.</p> <p>15 MS. CAPOTOSTO: This is STAHL00046, for the</p> <p>16 record?</p> <p>17 MS. BRAULT: Yes.</p> <p>18 THE WITNESS: Going in Column B you can look at</p> <p>19 total incurred and paid through November 30, 2012,</p> <p>20 and those -- that's the data we got from Anthem.</p> <p>21 It looked at claims that were incurred and paid</p> <p>22 through 2012.</p> <p>23 We know it takes a period of time to ultimately</p> <p>24 pay out all the claims for services, for example,</p> <p>25 rendered in November of 2012. We look at the</p>
<p style="text-align: right;">Page 54</p> <p>1 A. Yes.</p> <p>2 Q. Was there a margin of error?</p> <p>3 A. Well, there is always -- you are never</p> <p>4 going to be exactly the same, and one of the</p> <p>5 reasons is we are looking at incurred claims versus</p> <p>6 paid claims. Incurred claims has to do with all</p> <p>7 claims -- for example, if I look at a claim that</p> <p>8 was incurred in 2010, that means the services were</p> <p>9 rendered in 2010, and it will take a number of --</p> <p>10 can take several years before all of those claims</p> <p>11 are actually, ultimately, paid out. So there can</p> <p>12 be different estimates of what those claim amounts,</p> <p>13 ultimately, will be, but they were all close enough</p> <p>14 that we felt that the data -- that there wasn't any</p> <p>15 significant data missing from what we got from</p> <p>16 Anthem. It tied pretty well with what we had</p> <p>17 previously.</p> <p>18 Q. This one, the Claims Input Sample 2011</p> <p>19 Rate, has a number of columns that actually have</p> <p>20 blanks in them; do you know why?</p> <p>21 A. I do not know why other than -- no, off</p> <p>22 the top of my head, I don't know why.</p> <p>23 Q. And you didn't produce this document?</p> <p>24 A. This is the -- well, we ultimately, we</p> <p>25 produced it in a prior year.</p>	<p style="text-align: right;">Page 56</p> <p>1 historical length of time that it takes to pay out</p> <p>2 those claims. We can make an estimate of what that</p> <p>3 amount will ultimately become.</p> <p>4 So if you look at the Column B, which is the</p> <p>5 total incurred and paid through November, you will</p> <p>6 see that we make an estimate in Column H of the</p> <p>7 amount that's still remaining. That's the</p> <p>8 incurred, in other words, the services that have</p> <p>9 been rendered but they haven't actually been paid</p> <p>10 out for whatever reason. Either they haven't been</p> <p>11 submitted for payment or they are still being</p> <p>12 adjudicated or any number of reasons it could be.</p> <p>13 BY MS. BRAULT:</p> <p>14 Q. This would have been data that you used to</p> <p>15 make your future calculations?</p> <p>16 A. Correct. We got paid claims through the</p> <p>17 November 30. We, what I would refer to as</p> <p>18 completed those claims. In other words, made an</p> <p>19 estimate of what the amounts ultimately will be</p> <p>20 paid out on those claims, and that's what we use</p> <p>21 for analysis of the estimated incurred claims.</p> <p>22 Q. Do you know what the difference is then</p> <p>23 between the IBNR model -- this is post-65 that's</p> <p>24 included in 46 and pre-65 in 47?</p> <p>25 A. Correct.</p>

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<p style="text-align: right;">Page 57</p> <p>1 Q. Okay. Is there a big difference between 2 incurred but not paid costs? 3 A. Sure. 4 If you want to -- I think the easiest 5 thing to do is to see that -- do you mean between 6 pre-65 and post-65 or do you mean just -- the 7 biggest difference -- 8 Q. Two different charts. 9 A. Yes. 10 The main difference is that because 11 post-65 has Medicare involved and so to adjudicate 12 the claims, you sort of have to know what Medicare 13 has paid. It takes longer. So there is usually a 14 longer period of time over which it will take to 15 ultimately adjudicate those. So if you wanted to 16 open it, I can show you what I'm talking about. 17 Q. That's okay. 18 Liability summary is STAHL00048. This is 19 something -- is this something that you prepared? 20 A. This is -- this would have been prepared 21 by Peter and Rebecca, and this looks to be the cash 22 flow and summaries that were in Exhibits 5 and 6. 23 Q. Let me ask you about that. Do you know 24 where the data is that they got this from? 25 A. The ultimate -- the original data would</p>	<p style="text-align: right;">Page 59</p> <p>1 personally performing this analysis. 2 I don't believe that we've done this 3 specific type of analysis before. 4 Q. Who did it for you? 5 A. It was an individual in our Minneapolis 6 office. I can't recall his name off the top of my 7 head. 8 Q. Would it tell me if I go to -- 9 A. It very well may be that he's shown as the 10 creator of the document. 11 Q. Laura Laudenberger? 12 A. She did not do that particular portion of 13 the analysis. She was the individual in our 14 research area that supplied the data for the 15 analysis. 16 Q. Do you know who did this analysis? 17 A. Again, off the top of my head, I don't 18 know. I could find out and follow up with that. 19 Q. How do you know if it's reliable? 20 A. How do I know -- 21 Q. Yeah, if that particular analysis is 22 reliable. 23 A. Other than telling you that it's an 24 individual that we contract with to do analyses, 25 and this is not a particularly complex analysis.</p>
<p style="text-align: right;">Page 58</p> <p>1 have been -- I think you're -- I think that's what 2 you're in right now, those data tabs, pre-65 3 medical and post-65 medical. They would have been 4 from our valuation software. 5 Q. Okay. It doesn't really tell me from the 6 formula line where those came from? 7 A. Correct. I think -- well, those would 8 have been taken from the valuation run, software 9 run, and then essentially, I think, cut and pasted 10 into that document. 11 Q. Okay. And then I think that we already 12 looked at 49C earlier. This is the cost or the 13 billing statement. 14 And then STAHL00050_rbrvs is -- what is 15 this? 16 A. That was the -- 17 Q. CPT codes? 18 A. -- CPT codes to classify claims into 19 whether they were procedure codes that existed in 20 1998 or not. 21 Q. Have you performed this analysis in other 22 cases or is this something you undertook for the 23 purposes of this case? 24 A. I know -- this was a specific something 25 someone else did for me. So this wasn't me</p>	<p style="text-align: right;">Page 60</p> <p>1 I trust that the individual did the analysis 2 correctly. 3 Q. Can you tell me what the method was that 4 was used? 5 A. Yes. 6 Similar codes, procedure codes exist on 7 the Anthem files, and there are software programs 8 that enable us to match up those codes that are on 9 this file and sort of separate the claims that are 10 in the Anthem files essentially into three groups: 11 One where the codes matched, ones where the codes 12 didn't match and claims on the Anthem file where 13 there was no code. 14 Q. Now, so if a code did not match, what did 15 that mean? 16 A. It was just sort of put off to the side in 17 a separate bucket, and then I think if you look at 18 the exhibit that this relates to -- maybe it's 19 Exhibit 7. I can't remember off the top of my 20 head -- 21 Q. Your report is right there, if you want to 22 look. 23 A. It is Exhibit 8. There are essentially 24 three -- there is three buckets. There is total 25 claims with codes, in this case that's referred to</p>

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<p style="text-align: right;">Page 61</p> <p>1 as total CPT/HTPC claims.</p> <p>2 THE COURT REPORTER: Total...</p> <p>3 BY MS. BRAULT:</p> <p>4 Q. CPT/HTPC claims is what he said. It's an</p> <p>5 acronym.</p> <p>6 A. Then there are codes for CPT/HTPCs that</p> <p>7 did not exist in 1998, and there is also a group of</p> <p>8 claims for which there was no coding on the Anthem</p> <p>9 file.</p> <p>10 Q. Now, why did you pick 1998?</p> <p>11 A. That was the year of the contract, the</p> <p>12 year of the group in question.</p> <p>13 Q. Did you understand that the context</p> <p>14 specifying what the benefits were was in effect at</p> <p>15 least until 2006, correct?</p> <p>16 A. My understanding, I thought, was that the</p> <p>17 last --</p> <p>18 Q. 2004. I am sorry. It was at least a</p> <p>19 six-year contract.</p> <p>20 A. Correct, I did understand that.</p> <p>21 Q. The reason that you used 1998 -- and did</p> <p>22 you understand that when the agreement was made in</p> <p>23 1998 that CNH was agreeing to cover drugs that</p> <p>24 might come into existence at least during the</p> <p>25 contract term, correct?</p>	<p style="text-align: right;">Page 63</p> <p>1 A. That is a file, historical retiree census</p> <p>2 file, that we relied upon to get the counts of</p> <p>3 covered individuals historically.</p> <p>4 Q. So this has the basic demographic data for</p> <p>5 the retiree?</p> <p>6 A. Correct, at various points in time.</p> <p>7 Q. And there is another document that we'll</p> <p>8 get to, 52, but STAHL 1 through 51, were they all</p> <p>9 documents that you relied upon in your report or</p> <p>10 used?</p> <p>11 A. This, to my knowledge, there is only one</p> <p>12 that I don't believe we used directly in the</p> <p>13 report.</p> <p>14 Q. And which one was that?</p> <p>15 A. That would be -- there was one document,</p> <p>16 which is what I would call a continuous table. It</p> <p>17 would show how many claims were at various levels</p> <p>18 of cost, X number of claims between \$100,000 and</p> <p>19 200,000. I don't believe we directly used that in</p> <p>20 anything, but there was -- was a document that we</p> <p>21 used in the course of this, so, therefore, we</p> <p>22 included it.</p> <p>23 MS. CAPOTOSTO: When it's a good time for you,</p> <p>24 I'd like to take a break.</p> <p>25 MS. BRAULT: I think this is a good time. We</p>
<p style="text-align: right;">Page 62</p> <p>1 A. Correct.</p> <p>2 Q. Is it a new thing that new medical</p> <p>3 procedures occur?</p> <p>4 A. No, it's not.</p> <p>5 Q. Is that something in 1998, when they</p> <p>6 bargained their contract, they would know that</p> <p>7 there might be things that would be developed later</p> <p>8 that would be covered?</p> <p>9 MS. CAPOTOSTO: Object to form.</p> <p>10 THE WITNESS: Correct.</p> <p>11 BY MS. BRAULT:</p> <p>12 Q. Now, looking at all of the things in here,</p> <p>13 are there things that you provided to us that you</p> <p>14 didn't rely upon in coming to your opinion?</p> <p>15 MS. CAPOTOSTO: You say "looking at things in</p> <p>16 here."</p> <p>17 MS. BRAULT: The documents that we've gone</p> <p>18 through now, STAHL Exhibit 1 and we're currently</p> <p>19 looking at 51C.</p> <p>20 BY MS. BRAULT:</p> <p>21 Q. So STAHL Bates Stamp 1 through 51 -- let's</p> <p>22 identify 51 for the record. It claims it is a</p> <p>23 retiree census. Do you know what that is?</p> <p>24 A. Yes.</p> <p>25 Q. What is that?</p>	<p style="text-align: right;">Page 64</p> <p>1 can stop now, if you want.</p> <p>2 (A short break was taken.)</p> <p>3 BY MS. BRAULT:</p> <p>4 Q. I am looking now at what was sent to me in</p> <p>5 a separate file. It's the benchmarking file, and</p> <p>6 it was Bates stamped STAHL 52, and this is just a</p> <p>7 summary tab that I have on the screen right now.</p> <p>8 Do you recognize this document?</p> <p>9 A. I do.</p> <p>10 Q. Okay. Did you compile this document?</p> <p>11 A. I did not compile it personally, another</p> <p>12 individual.</p> <p>13 Q. Again, there are many tabs here. One is</p> <p>14 Retirees All Fields and then Actives All Fields,</p> <p>15 and then there is a Sheet 1 with -- I am not even</p> <p>16 sure what that is supposed to be -- the number of</p> <p>17 employees; is that right?</p> <p>18 A. Correct.</p> <p>19 Q. And then lookups, do you know what lookups</p> <p>20 are?</p> <p>21 A. Looking through the spreadsheet, I believe</p> <p>22 that was a way of making sure all the data was in a</p> <p>23 consistent format so that it could be more easily</p> <p>24 summarized.</p> <p>25 Q. So somebody put these numbers in?</p>

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<p style="text-align: right;">Page 65</p> <p>1 A. Correct.</p> <p>2 Q. Somebody typed in all of the numbers that</p> <p>3 are in here?</p> <p>4 A. I'm not a hundred percent sure how the</p> <p>5 numbers got in there, whether they were typed in or</p> <p>6 whether they were originally created on a pivot</p> <p>7 table.</p> <p>8 Q. So why would -- why did -- do you have any</p> <p>9 idea what this does or how it assisted?</p> <p>10 A. I believe it was used in order to get the</p> <p>11 data that -- the raw data in a consistent format</p> <p>12 for when it was ultimately summarized into the</p> <p>13 exhibit.</p> <p>14 Q. So the raw data that this relies upon is</p> <p>15 where?</p> <p>16 A. I believe that would be in the active all</p> <p>17 fields of retirees, all fields.</p> <p>18 Q. Okay. I am just going to go from the top</p> <p>19 for the first one here. The organization name is</p> <p>20 listed as A.O. Smith Corporation for the first</p> <p>21 group which is under Row 2?</p> <p>22 MS. CAPOTOSTO: For the record you are on the</p> <p>23 Active All Fields tab?</p> <p>24 MS. BRAULT: Yes.</p> <p>25</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. Did they mine the data for those plans?</p> <p>2 A. Typically, when we do these types of</p> <p>3 surveys -- that's why I'm saying I'm not sure --</p> <p>4 we, typically, will look at the benefits that it</p> <p>5 provides to new hires.</p> <p>6 Q. Okay. So when you undertook this</p> <p>7 particular analysis, did you look to see if A.O.</p> <p>8 Smith Corporation had current retiree health care</p> <p>9 benefits available to any class of retired</p> <p>10 employees?</p> <p>11 A. We did not.</p> <p>12 Q. So by limiting it to what they offered to</p> <p>13 current employees, you would be limiting it to more</p> <p>14 recent plans or more recently adopted plans?</p> <p>15 A. We may be. Again, I don't know</p> <p>16 specifically what was put into this database.</p> <p>17 Q. And who put that in, did you say, out of</p> <p>18 your group?</p> <p>19 A. There is -- no, this is an existing</p> <p>20 database. It wasn't specifically created for this</p> <p>21 assignment. This is a database we have for a</p> <p>22 number of purposes.</p> <p>23 Q. And there is -- it looks like many columns</p> <p>24 of information, participation requirements, some</p> <p>25 are in network. There is family maximums,</p>
<p style="text-align: right;">Page 66</p> <p>1 BY MS. BRAULT:</p> <p>2 Q. Where did you get this data? Where did</p> <p>3 this come from?</p> <p>4 A. We send out -- we either send out or we</p> <p>5 may fill out ourselves. There is a portion of our</p> <p>6 organization that does survey information. We</p> <p>7 would send out a request for an organization to</p> <p>8 participate. They may fill this information out</p> <p>9 themselves, fill a questionnaire out or to the</p> <p>10 extent they are an existing client or a, whether or</p> <p>11 not an existing client, that we have the</p> <p>12 information out. We may have someone in our</p> <p>13 organization fill out the data.</p> <p>14 Q. So I am going to Retirees All Fields now.</p> <p>15 It says A.O. Smith, and then the first thing it</p> <p>16 says under column about retiree medical plans, it</p> <p>17 says no. So is it fair to say that that company</p> <p>18 doesn't provide retirees any medical plans?</p> <p>19 A. It's not clear from this what the question</p> <p>20 is being asked. It may mean that they don't</p> <p>21 provide any retiree medical plans. It may also</p> <p>22 mean they don't provide retiree medical to new</p> <p>23 hires, and they may have groups of existing</p> <p>24 grandfather retirees that have retiree medical</p> <p>25 benefits.</p>	<p style="text-align: right;">Page 68</p> <p>1 deductibles. What's the difference between</p> <p>2 Column G, where it says Annual Deductible Before 65</p> <p>3 Out of Network, Individual -- H is the family</p> <p>4 maximum?</p> <p>5 A. Correct.</p> <p>6 Q. In some of these where it says none,</p> <p>7 apparently don't have an annual deductible before</p> <p>8 65 in network individual. Is that what it means</p> <p>9 when it says none?</p> <p>10 A. That's the way I read that.</p> <p>11 Q. Some of them have no out-of-pocket maximum</p> <p>12 or no out-of-network coverage?</p> <p>13 A. That's what that is saying, yes.</p> <p>14 Q. Did you choose the data points for</p> <p>15 comparison?</p> <p>16 A. We -- when we did our comparison, we chose</p> <p>17 the data for employers that offer PPO plans since</p> <p>18 that's the plan we were comparing against.</p> <p>19 Q. Was there any other limitation that you</p> <p>20 put on the data?</p> <p>21 MS. CAPOTOSTO: Object to form.</p> <p>22 THE WITNESS: I'm not aware of any. We looked</p> <p>23 at the active data and stripped out the PPO. So we</p> <p>24 were just looking at the PPO plans and compared</p> <p>25 those.</p>

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<p style="text-align: right;">Page 73</p> <p>1 turn the projector off just for a little bit so 2 that it doesn't overheat and ask you some other 3 kinds of questions. 4 I'm sorry. I should be able to tell this 5 from the exhibit but I'm not sure I noticed. 6 What is your billing rate? 7 A. I have to look it up myself. I think 8 it's -- well, let me look it up. 9 Q. It's shown as 655 an hour in Attachment A 10 here? 11 A. Okay. 12 Q. Is that right? 13 A. I believe so. 14 Q. And as of October 17 it indicates that 15 there is \$18,488 expended toward this report; is 16 that right? 17 A. Yes. 18 Q. And then what you gave me for November 19 includes -- is that an additional 15,858? 20 A. That's my understanding. 21 Q. And there is some additional as well? 22 A. Yes. 23 Q. Do you know how much there is additional 24 since then? 25 A. I don't believe -- I don't know.</p>	<p style="text-align: right;">Page 75</p> <p>1 A. No, I work in the health and group 2 benefits. 3 Q. And I think I asked you if you had ever 4 testified before, and you said no, not in a 5 deposition anyway. Have you testified in any other 6 forum? 7 A. I believe at one point, many years ago, 8 I was -- I testified in a -- I'm not sure of the 9 right word. Mediation or -- 10 Q. Were you in court? 11 A. I was not in court. It was something like 12 this. 13 Q. Was it an arbitration? 14 A. Arbitration. That's the word for it. 15 Sorry. 16 Q. That's all right. 17 Who were you testifying for? 18 A. I believe it was the state of Illinois. 19 Q. And why were you testifying? 20 A. There was a very narrow question as to 21 whether a rate increase could be positive or 22 negative or whether it could only be an increase. 23 Q. And do you know if you were an expert 24 witness in that case? 25 A. I don't know.</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. And does this billing just go through your 2 regular client account for CNH? 3 A. I am not sure how it gets billed. When 4 you say "regular client account," I'm not sure what 5 you mean. 6 Q. Well, you do work for CNH as an actuary, 7 correct? 8 A. Correct. 9 Q. Okay. Is it just billed through whatever 10 code you have for CNH in the Towers Watson billing 11 system? 12 A. Yes. 13 Q. Just a separate, I don't know, I guess, 14 matter? 15 A. I believe, looking at the other exhibit, 16 it appeared to be going through not a specifically 17 Reese group code. It was just a generic, general 18 code that we identified by comment as to whether -- 19 what the specific work product was. 20 Q. That's under the general topic of 21 retirement for CNH? 22 A. It was billed through the retirement line 23 of business. 24 Q. Is that the line of business that you're 25 in?</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Do you know if you've ever been qualified 2 as an expert witness before or an expert? 3 A. When you say "qualified," does that refer 4 to -- 5 Q. Where a court has determined that you are 6 qualified to provide expert witness testimony. 7 A. To the best of my -- I wouldn't have 8 thought so. I am not aware of it. 9 Q. Okay. Have you ever prepared expert 10 witness reports for anyone in the past? 11 A. No. 12 Q. So this would be your first experience 13 with the idea of providing expert witness 14 testimony? 15 A. Correct. 16 Q. And your educational background, where did 17 you go to college? 18 A. University of Michigan. 19 Q. And you graduated in 1983; is that 20 correct? 21 A. Yes. 22 Q. And that was with a mathematics degree? 23 A. Yes. 24 Q. Is that a bachelor of science? 25 A. Yes, bachelor of science.</p>

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<p style="text-align: right;">Page 77</p> <p>1 Q. And then --</p> <p>2 A. I'm sorry. It was a bachelor of arts.</p> <p>3 Either choice. I chose bachelor of arts. It was</p> <p>4 bachelor of arts. I made a conscious decision not</p> <p>5 to take bachelor of science.</p> <p>6 Q. You could do either one, correct?</p> <p>7 A. You could do either one, and there was no</p> <p>8 course difference between the two. So just choose</p> <p>9 what you want.</p> <p>10 Q. You graduated in 1983; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And then did you have additional education</p> <p>13 after that?</p> <p>14 A. No education directly, but in order to get</p> <p>15 an FSA, you have to take a series of exams</p> <p>16 sponsored by the Society of Actuaries.</p> <p>17 Q. Are you a fellow?</p> <p>18 A. I am.</p> <p>19 Q. And were you a fellow before or after they</p> <p>20 changed the coursework requirements?</p> <p>21 A. I got my fellowship in 1987. So they</p> <p>22 changed it continuously.</p> <p>23 Q. Have you had to take any more coursework</p> <p>24 after 1987 or exams after 1987?</p> <p>25 A. No exams. There is an education</p>	<p style="text-align: right;">Page 79</p> <p>1 as Exhibit No. 7. Take a moment to look at this</p> <p>2 and tell me if you've ever seen this document</p> <p>3 before.</p> <p>4 A. I believe I may have seen the document</p> <p>5 without the answers in it.</p> <p>6 Q. Without the answers.</p> <p>7 A. Oh, I'm sorry. Now that I see Tom</p> <p>8 Coogan's name at the bottom, I don't believe I've</p> <p>9 ever seen the document before.</p> <p>10 Q. Do you recognize Exhibit A or B as being</p> <p>11 documents that you provided to CNH or for CNH?</p> <p>12 A. Yes, those are documents that we provided.</p> <p>13 Q. Okay.</p> <p>14 A. They appear to be.</p> <p>15 Q. If you look at exhibit -- I'm sorry --</p> <p>16 it's No. 2, Interrogatory No. 2, which is on page 3</p> <p>17 of the document, it says that CNH incorporated by</p> <p>18 reference its objections, and then it says that it</p> <p>19 consulted with and relied upon Towers Watson & Co.,</p> <p>20 which provides CNH with benefits-related services</p> <p>21 in the ordinary course of business for information</p> <p>22 used to answer 10 through 31 and 51.</p> <p>23 Do you know who at Towers Watson was</p> <p>24 consulted?</p> <p>25 A. Without looking at what 10 through 31 and</p>
<p style="text-align: right;">Page 78</p> <p>1 requirement that I fulfill annually, but there is</p> <p>2 no direct exam per se.</p> <p>3 Q. Who did you work for starting in 1983?</p> <p>4 A. I started work for Banker's Life and</p> <p>5 Casualty in Chicago.</p> <p>6 Q. How long did you work for them?</p> <p>7 A. I worked there until 1986.</p> <p>8 Q. And then where did you go?</p> <p>9 A. I went to CNA Chicago.</p> <p>10 Q. CNA?</p> <p>11 A. CNA Insurance Company.</p> <p>12 Q. How long were you there?</p> <p>13 A. I was there until 1989.</p> <p>14 Q. And then where?</p> <p>15 A. Then to the Wyatt Company.</p> <p>16 Q. Which became Towers Watson eventually?</p> <p>17 A. Correct.</p> <p>18 Q. So you have been with the same company,</p> <p>19 some different iterations of it, since 1989?</p> <p>20 A. Correct.</p> <p>21 (Whereupon, STAHL Deposition</p> <p>22 Exhibit 7 was marked for</p> <p>23 identification.)</p> <p>24 BY MS. BRAULT:</p> <p>25 Q. I am going to show you what's been marked</p>	<p style="text-align: right;">Page 80</p> <p>1 51, those specific answers, no, I don't know.</p> <p>2 Q. Okay. Well, 10 through 31 were questions</p> <p>3 about -- you can look at them -- the actual cost</p> <p>4 for benefits between 2008 and 2012 broken down into</p> <p>5 several categories and then projected costs from</p> <p>6 out to 2022 over several different categories, and</p> <p>7 then 51 is about the rate of the growth of</p> <p>8 out-of-pocket costs.</p> <p>9 A. It would be the same group of people that</p> <p>10 were involved in putting together the exhibits that</p> <p>11 are incorporated in the expert report; that is to</p> <p>12 say, principally, myself, Nick Rosales, Peter</p> <p>13 Gasiewski and Rebecca Petersen.</p> <p>14 Q. And so when you say -- are those all</p> <p>15 people who report to you or that you have a work</p> <p>16 relationship with?</p> <p>17 A. None of them report to me directly. They</p> <p>18 are all people I have a working relationship with.</p> <p>19 Q. Is your -- do you work regularly on CNH's</p> <p>20 account?</p> <p>21 A. Yes.</p> <p>22 Q. And are you their principal actuary at</p> <p>23 Towers Watson?</p> <p>24 A. I'd be the principal health care actuary,</p> <p>25 yes.</p>

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<p style="text-align: right;">Page 81</p> <p>1 Q. How long have they been your client?</p> <p>2 A. I don't know the exact date, but I believe</p> <p>3 I've worked with them since 2008.</p> <p>4 Q. Did you work with them in a less direct</p> <p>5 role before that?</p> <p>6 A. I don't believe so.</p> <p>7 Q. Did you replace someone that had been</p> <p>8 working with them as their principal health care</p> <p>9 actuary before then?</p> <p>10 A. That's my understanding.</p> <p>11 Q. Do you know who that was?</p> <p>12 A. I believe the prior actuary was Towers</p> <p>13 Perrin, TP.</p> <p>14 Q. And this was back in 2008. What was the</p> <p>15 iteration of your employer at that time?</p> <p>16 A. At that time that was -- we were Watson</p> <p>17 Wyatt.</p> <p>18 Q. So when it merged, you got the work?</p> <p>19 A. No.</p> <p>20 Q. When Towers Perrin and Watson Wyatt</p> <p>21 merged?</p> <p>22 A. No, I believe that was prior to the</p> <p>23 merger. I don't believe the merger actually took</p> <p>24 place until 2010.</p> <p>25 Q. So who do you think was on the account</p>	<p style="text-align: right;">Page 83</p> <p>1 also used for accounting purposes.</p> <p>2 Q. Anything else?</p> <p>3 A. There may be other types of projects that</p> <p>4 we take on from time to time, but those are the</p> <p>5 principal ongoing activities.</p> <p>6 Q. And how much do -- how much does Towers</p> <p>7 Watson bill to CNH for your work in a typical year;</p> <p>8 do you know?</p> <p>9 A. I don't know.</p> <p>10 Q. How many clients like CNH do you have that</p> <p>11 you are their principal health care actuary?</p> <p>12 A. I have to think.</p> <p>13 Do you want an exact number?</p> <p>14 Q. Well, I can take an estimate.</p> <p>15 A. I'd say between eight and ten.</p> <p>16 Q. Well, is there some other type of work you</p> <p>17 provide as an actuary to some other type of client</p> <p>18 or is your work at Towers Watson primarily as</p> <p>19 principal health care actuary for eight to ten</p> <p>20 clients?</p> <p>21 A. It's primarily that, but I do do other</p> <p>22 types of projects throughout the year. And I also</p> <p>23 review work of other -- for other clients who I'm</p> <p>24 not the principal actuary, but I may be called in</p> <p>25 to just review work other people have done.</p>
<p style="text-align: right;">Page 82</p> <p>1 before you from Towers Perrin?</p> <p>2 A. I not a hundred percent sure. It would</p> <p>3 have been someone out of our Milwaukee office.</p> <p>4 Q. And you don't know who it is?</p> <p>5 A. I don't know for sure who was on the</p> <p>6 account at that time.</p> <p>7 Q. And who do you work with from CNH? Who is</p> <p>8 your liaison?</p> <p>9 A. Primarily, Don Pooley (phonetic) is my</p> <p>10 principal liaison.</p> <p>11 Q. And what is the scope of the work that you</p> <p>12 do for CNH?</p> <p>13 A. We do active health care consulting,</p> <p>14 pricing, premium in the employee contribution</p> <p>15 setting, system and plan design. We do similar --</p> <p>16 similar type work for retirees -- rate setting,</p> <p>17 cost setting, retiree contribution, calculations.</p> <p>18 I also work in conjunction with the retirement</p> <p>19 practice.</p> <p>20 Q. I'm sorry. What was the last thing you</p> <p>21 said?</p> <p>22 A. I work in conjunction with our retirement</p> <p>23 practice to assist in putting together retiree</p> <p>24 medical evaluations that are used for accounting</p> <p>25 purposes and also disability evaluations that are</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Do you know what percentage of your work</p> <p>2 at Towers Watson is spent doing work for CNH as</p> <p>3 opposed to all the other kind of work that you do?</p> <p>4 A. I don't know.</p> <p>5 Q. Would you say that it's -- the work that</p> <p>6 you do for CNH is more or less time consuming than</p> <p>7 the other clients that you have?</p> <p>8 A. I have bigger clients, and I have smaller</p> <p>9 clients. I'm not sure. They are not the biggest</p> <p>10 client I have. They are not the smallest.</p> <p>11 Q. Are they the second or third biggest?</p> <p>12 A. They are a bigger client.</p> <p>13 Q. So would you say that they are like the</p> <p>14 top third?</p> <p>15 A. The reason I'm not 100 percent sure is</p> <p>16 because from a health care perspective, they are</p> <p>17 a -- they are a good-sized client. I'd say they</p> <p>18 are in the top third.</p> <p>19 Q. And then the -- I take it you are paid</p> <p>20 directly by Towers Watson. You get paid a salary,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. What do you get paid by Towers Watson?</p> <p>24 A. Salary?</p> <p>25 Q. Yes.</p>

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<p style="text-align: right;">Page 85</p> <p>1 A. I believe it's 220,000 a year.</p> <p>2 Q. And on top of it you receive variable pay?</p> <p>3 A. I have an annual bonus too.</p> <p>4 Q. And is that dependent upon your</p> <p>5 receivables or some other factor?</p> <p>6 A. Not receivables directly. There are a</p> <p>7 number of different items that factor into it.</p> <p>8 Q. And what -- obviously, the satisfaction of</p> <p>9 one of your top 30 percent clients is going to be</p> <p>10 an important factor?</p> <p>11 A. That would be fair to say.</p> <p>12 Q. What is the relationship between, if any,</p> <p>13 the bonus and your salary? Sometimes people have a</p> <p>14 percentage bonus.</p> <p>15 A. Yes.</p> <p>16 Q. What typically is your bonus, if you make</p> <p>17 the whole thing?</p> <p>18 A. The target percent is 30 percent. It</p> <p>19 could go up or down depending on a number of items,</p> <p>20 how well I met various target goals and probably,</p> <p>21 most importantly, how profitable the company was as</p> <p>22 a whole.</p> <p>23 Q. So both of those things are factored in?</p> <p>24 A. Correct.</p> <p>25 Q. And the target, are they per client</p>	<p style="text-align: right;">Page 87</p> <p>1 A. Not all.</p> <p>2 When you say "all," do you mean if I look</p> <p>3 at the universe of employers?</p> <p>4 Q. No, I mean all of CNH's medical plans.</p> <p>5 A. CNH? I believe there is a plan that is</p> <p>6 funded.</p> <p>7 Q. Which one is that?</p> <p>8 A. I know them as FANA, and I believe that is</p> <p>9 at least partially funded. I believe there are</p> <p>10 some assets to the tune of, perhaps, \$40 million</p> <p>11 that underlie that plan, that particular plan.</p> <p>12 Q. And who is the -- who does that apply to,</p> <p>13 the FANA plan?</p> <p>14 A. It's a closed group of retired union</p> <p>15 employees. I believe former steelworkers, but</p> <p>16 again, I'm not --</p> <p>17 Q. Not sure?</p> <p>18 A. -- not sure.</p> <p>19 Q. You do the FASB reporting for CNH,</p> <p>20 correct?</p> <p>21 A. Our company does, yes, and I am involved</p> <p>22 in helping to put together the report, yes.</p> <p>23 Q. And you signed it in the last few years,</p> <p>24 correct?</p> <p>25 A. Yes, I have.</p>
<p style="text-align: right;">Page 86</p> <p>1 targets or are they -- I mean your personal</p> <p>2 targets, are they per client targets or do they</p> <p>3 have like annual billable ranges or goals?</p> <p>4 A. They are not per client. The target</p> <p>5 percentage tends to be -- it's related to your</p> <p>6 grade, what pay band you are at. So I'm a Band 40</p> <p>7 employee. Everyone in 40 has a 30 percent target.</p> <p>8 Q. And so whether or not you meet the target,</p> <p>9 though, is based upon the total profitability of</p> <p>10 the company and also some of at least your numbers?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And performance is factored in as</p> <p>13 well, subject to performance or no?</p> <p>14 A. It is. There are objective measures,</p> <p>15 billable hours, new business sales and then there</p> <p>16 are other less objective, more subjective criteria.</p> <p>17 Q. And have you been meeting your target</p> <p>18 since 2008?</p> <p>19 A. I have.</p> <p>20 Q. Now, the plan that covers the class, is</p> <p>21 that what you would refer to as a funded or</p> <p>22 unfunded plan?</p> <p>23 A. From a retiree medical perspective, it</p> <p>24 would be an unfunded plan.</p> <p>25 Q. Are all of the medical plans unfunded?</p>	<p style="text-align: right;">Page 88</p> <p>1 (Whereupon, STAHL Deposition</p> <p>2 Exhibit 8 was marked for</p> <p>3 identification.)</p> <p>4 BY MS. BRAULT:</p> <p>5 Q. I will show you what's been marked as</p> <p>6 Exhibit No. 8. This would be the valuation that</p> <p>7 Towers Watson prepared in -- is it April 2013 that</p> <p>8 it was prepared?</p> <p>9 A. Yes.</p> <p>10 Q. And it is to cover the year ending</p> <p>11 December 31, 2012, and the 2013 benefit cost?</p> <p>12 A. This was -- yes, that's correct, and</p> <p>13 that's -- if I go back, it appears this report was</p> <p>14 issued in April 2013, just knowing when this type</p> <p>15 of information would have had to be available to</p> <p>16 the accountants and financial statements, but when</p> <p>17 you say prepared, the bulk of the work would have</p> <p>18 had to have been done prior to that.</p> <p>19 Q. Okay. Looking at what's been -- if you</p> <p>20 look at the very bottom right-hand corner of each</p> <p>21 document, there is a number that starts out CNHA</p> <p>22 and then it has numbers 059. Can you look at the</p> <p>23 one that ends in 841?</p> <p>24 A. Okay.</p> <p>25 Q. And it says that this report documents the</p>

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<p style="text-align: right;">Page 125</p> <p>1 MS. CAPOTOSTO: I am going to object and 2 instruct not to answer on the basis of the 3 work-product doctrine. 4 BY MS. BRAULT: 5 Q. Do you know who made the decision to 6 change the benefits? 7 MS. CAPOTOSTO: I am going to object and 8 instruct not to answer on the basis of the 9 work-product doctrine. 10 BY MS. BRAULT: 11 Q. Do you know when the decision was made to 12 propose the precise plan that's currently being 13 proposed? 14 MS. CAPOTOSTO: I will object and instruct not 15 to answer on the basis of the work-product 16 doctrine. 17 BY MS. BRAULT: 18 Q. Do you know who at CNH was responsible for 19 determining whether or not the proposed plan was a 20 reasonable plan? 21 MS. CAPOTOSTO: I am going to object and 22 instruct not to answer on the basis of the 23 work-product doctrine. 24 BY MS. BRAULT: 25 Q. Did you? Were you the person responsible?</p>	<p style="text-align: right;">Page 127</p> <p>1 BY MS. BRAULT: 2 Q. Can you identify any prescription drugs, 3 for example, or any medical procedures, new 4 economies of care, advances in medical technology, 5 any of those things, can you identify -- 6 A. Them by name, is that what you're -- 7 Q. Yes. 8 A. Sure. 9 Prescription drugs, I would say Nexium is 10 a new prescription drug. 11 Q. Anything else? 12 A. Off the top of my head -- 13 Q. Was that the focus of your task when you 14 started out your report? 15 A. One of the aspects of report were to try 16 and determine to what extent new procedures or new 17 drugs impacted cost or contributed to cost. It 18 wasn't specifically to identify which procedures 19 those were but really more focused on what 20 percentage of costs were related to the new 21 procedures or new prescription drugs. 22 Q. And did you look at any particular 23 procedure? 24 A. No, we did not. It was a broader net. 25 Q. When you say "we," you mean the people on</p>
<p style="text-align: right;">Page 126</p> <p>1 A. No, I was not. 2 Q. Have you made a determination of whether 3 or not you believe that the -- or are you of the 4 opinion that the proposed plan is a reasonable one? 5 A. That's a pretty broad question. It 6 depends on how you define reasonable. I don't know 7 that there is any objective criteria that I could 8 say is it reasonable. It would depend on how you 9 are defining reasonability. 10 Q. Did you attempt to answer that question at 11 all in your report? 12 A. I did look at the plan provisions in the 13 one exhibit where there is benchmarking and tried 14 to determine whether -- with respect to the pre-65 15 benefits, are those the kind of provisions 16 comparable to the benefits offered by other 17 employers, not necessarily to retirees but to 18 active employees. 19 Q. Do you know if any new prescription drugs, 20 medical procedures, new economics of care or 21 advances in medical technology that you are 22 claiming, support the idea that the changes in the 23 proposed plan are reasonable? 24 MS. CAPOTOSTO: Object to form. 25 THE WITNESS: Do I know if any?</p>	<p style="text-align: right;">Page 128</p> <p>1 your team? 2 A. Correct, or our firm. 3 Q. So neither you nor the person on your 4 team -- I can't remember the name of that person. 5 A. Skoog, Derek Skoog. 6 Q. As far as you know, he didn't look at any 7 particular specific procedure either. He used 8 codes? 9 A. Derek, actually, wasn't involved. He was 10 involved in the benchmarking study, and I can't 11 remember the name of the person in the Minneapolis 12 office that was involved in the procedures of that 13 study. But it was not -- we didn't investigate any 14 particular code. 15 Q. Was there any new economics of care that 16 you relied upon in coming to this conclusion that 17 the proposed changes are reasonable? 18 MS. CAPOTOSTO: Object to form. 19 THE WITNESS: No, I don't believe that 20 I actually really -- 21 BY MS. BRAULT: 22 Q. I'm sorry. I should probably look at the 23 report. So you say in your report -- 24 Let's go to Exhibit 6. In your report you 25 have four opinions that are first summarized under</p>

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<p style="text-align: right;">Page 129</p> <p>1 opinions and then you have your bases for the</p> <p>2 opinions?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Yes?</p> <p>5 A. Yes.</p> <p>6 Q. Did you author this document?</p> <p>7 A. Yes.</p> <p>8 Q. Looking at exhibit -- I'm sorry -- Opinion</p> <p>9 No. 1, to the extent that this is an opinion, I am</p> <p>10 not sure I quite understand it. I mean what you're</p> <p>11 saying is is that you prepared an exhibit or your</p> <p>12 team prepared exhibits that show what the</p> <p>13 historical experience of claims were, and you</p> <p>14 projected them out through 2032, right?</p> <p>15 A. Correct.</p> <p>16 Q. And you're not saying anything substantive</p> <p>17 or -- I shouldn't say that. You are not saying</p> <p>18 anything normative about that. You are just saying</p> <p>19 that this is what it is?</p> <p>20 MS. CAPOTOSTO: Object to form.</p> <p>21 THE WITNESS: We're saying it's -- in our</p> <p>22 opinion it's our best estimate to the extent</p> <p>23 that -- the projections are not factual. They are</p> <p>24 a projection. They involve some subjective</p> <p>25 determination that in our opinion the assumptions</p>	<p style="text-align: right;">Page 131</p> <p>1 MS. CAPOTOSTO: Object to form.</p> <p>2 THE WITNESS: There are also other assumptions</p> <p>3 that we also outlined on the bottom of Exhibit 5</p> <p>4 and 6 that show how we broke up various components</p> <p>5 of the cost.</p> <p>6 BY MS. BRAULT:</p> <p>7 Q. Are there any assumptions that you made</p> <p>8 that aren't contained somewhere in the body of the</p> <p>9 brief or the exhibits?</p> <p>10 A. To my knowledge, no.</p> <p>11 Q. Are any of the assumptions outside of the</p> <p>12 norm in actuarial science?</p> <p>13 A. No.</p> <p>14 In fact, to the extent they are the same</p> <p>15 as we use for valuation purposes, they have to be</p> <p>16 our best estimate of future experience.</p> <p>17 Q. Did you look at anything that JOHN F.</p> <p>18 STAHL prepared? I am sorry. You are JOHN F.</p> <p>19 STAHL.</p> <p>20 Did you look at anything Mark Lin prepared</p> <p>21 in this case?</p> <p>22 A. I may have.</p> <p>23 Is Mark Lin the underwriter who reviewed</p> <p>24 the -- I'm not sure who Mark Lin was.</p> <p>25 Q. I am not sure underwriter is the correct</p>
<p style="text-align: right;">Page 130</p> <p>1 used to do that are reasonable.</p> <p>2 BY MS. BRAULT:</p> <p>3 Q. And the assumptions that you used to do</p> <p>4 that are essentially actuarial assumptions?</p> <p>5 A. That's correct.</p> <p>6 Q. And the methodology that you applied would</p> <p>7 be accounting methodology and actuarial</p> <p>8 assumptions?</p> <p>9 A. I'd say I would consider it an actuarial</p> <p>10 methodology. It happens to line up with the same</p> <p>11 basis that we use for the accounting, but the cash</p> <p>12 flows themselves or the projected cash flows are</p> <p>13 not -- there is nothing inherently -- there is no</p> <p>14 accounting, anything inherently accounting about</p> <p>15 this.</p> <p>16 Q. So as I understand it, you took raw</p> <p>17 data -- raw, I guess as it comes from Express</p> <p>18 Scripts or Anthem -- and you migrated it into a</p> <p>19 software program that you can use, like Excel, and</p> <p>20 you determined what the total costs were per year</p> <p>21 and the per claim cost and broke those down into</p> <p>22 the categories that are indicated.</p> <p>23 Other than the assumptions that you made,</p> <p>24 that you indicate in the back of your report here,</p> <p>25 are there any other assumptions that you used?</p>	<p style="text-align: right;">Page 132</p> <p>1 word. He's an actuary, and he looked at the</p> <p>2 numbers similar to the way you did in your Opinion</p> <p>3 No. 1.</p> <p>4 A. He's an expert, the expert witness or did</p> <p>5 the expert report for the plaintiffs?</p> <p>6 Q. Yes.</p> <p>7 A. I believe I reviewed that report, yes.</p> <p>8 Q. Did you see anything in his report that</p> <p>9 differed from your report in terms of the estimate</p> <p>10 of the cost or that you disagreed with in terms of</p> <p>11 the estimate of the cost?</p> <p>12 MS. CAPOTOSTO: Object to form.</p> <p>13 THE WITNESS: I didn't see that he made any</p> <p>14 independent estimates of the cost, and it looked,</p> <p>15 from what I can recall from reading it, that he</p> <p>16 sort of reviewed the numbers we put together and</p> <p>17 commented on those numbers. I don't recall him --</p> <p>18 I don't recall independent projections.</p> <p>19 BY MS. BRAULT:</p> <p>20 Q. Did you take issue with anything that he</p> <p>21 said in that report that you can recall?</p> <p>22 MS. CAPOTOSTO: Object to form.</p> <p>23 THE WITNESS: I can't recall that I did.</p> <p>24 BY MS. BRAULT:</p> <p>25 Q. And then the second opinion that you have</p>

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1 here is No. 2, "The Medical plan provisions of the
2 proposed" -- well, strike that.

3 Before we get to that, on Exhibit No. 1,
4 is there anything that you relied upon that is not
5 contained in either the report, the exhibits or the
6 files that were provided to us on discs that we
7 looked through? STAHL 1 through 52.

8 **A. No.**

9 Q. Okay. And then looking at No. 6, "The
10 Medical plan provisions of the proposed pre-65 plan
11 compare favorably to plan designs reflected in
12 survey data collected for large employers for 2011
13 through 2013."

14 This is the benchmarking, correct?

15 **A. Correct.**

16 Q. Okay. And unlike the earlier opinion,
17 this opinion does -- it does have a normative raise
18 compared favorably?

19 **A. Correct.**

20 Q. And can you tell me what you did to
21 compare these -- I take it you compared the
22 proposed plan to the benchmark data, correct?

23 **A. That's correct.**

24 Q. Did you compare the current plan to that
25 benchmark data?

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1 what methodology you employed?

2 **A. With respect to the medical costs, we**
3 **looked at the procedure codes that were contained**
4 **on the current -- on the Anthem file for claims**
5 **incurred from 2008 to 2012 November 30. We**
6 **determined which of those were associated with**
7 **procedures that did not exist until 1998. We**
8 **looked at what percentage of costs were associated**
9 **with those codes. Similarly, we looked at not all**
10 **prescription drugs but those that were in the top**
11 **25 and looked at which prescription drugs those**
12 **were, which were drugs that had been introduced**
13 **since 1998, and determined what percentage of cost**
14 **of the top 25 drugs were due to drugs that were**
15 **introduced since 1998, and I looked at trends that**
16 **were occurring in those items.**

17 Q. When you say the "top 25," you are talking
18 about the top 25 in what sense?

19 **A. Cost, top 25 drugs with the highest annual**
20 **cost for each year.**

21 Q. Out of the data of claims?

22 **A. Out of the data of prescription drug**
23 **claims, yes.**

24 Q. And you didn't actually do that. That's
25 something that Express Scripts did for you?

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1 **A. I did not.**

2 Q. Tell me what your method -- what the
3 methodology was that you employed for this Opinion
4 No. 2.

5 **A. In Exhibit 7.**

6 Q. You are referencing an exhibit to tell me
7 what the methodology was?

8 **A. Yes.**

9 **We compared the principal plan provisions**
10 **against the -- on an individual basis against the**
11 **principal plan provisions for PPO plans, which were**
12 **the predominant plans offered for plans in the**
13 **database for active employees, and then determined**
14 **whether those fell above or below the average or**
15 **above or below the first quartile.**

16 Q. Any other methodology that you used to
17 reach your opinion in No. 2?

18 **A. No.**

19 Q. Is there any document or thing that you
20 relied upon that was not provided to us to reach
21 your Opinion No. 2 in the exhibit that we looked
22 at, that we had in this document that was Bates
23 stamped STAHL 52?

24 **A. No.**

25 Q. In reaching Opinion No. 3, can you tell me

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1 **A. Express Scripts has a standard report that**
2 **they put together that they provided to us.**

3 Q. And you used the data from the Express
4 Scripts standard report?

5 **A. Correct.**

6 Q. Did you use it or did somebody else use
7 it?

8 **A. Somebody else took that report,**
9 **transferred the actual dollar numbers into an Excel**
10 **spreadsheet and then looked up each drug in an FDA**
11 **database to see when that drug was introduced so it**
12 **could be categorized by the year it was introduced.**

13 Q. You didn't do that, looking it up --

14 **A. I didn't do it personally, no.**

15 Q. So you just took what they did, and you
16 looked at it?

17 **A. That's correct.**

18 Q. You didn't actually do any of the
19 analysis? They provided it to you?

20 MS. CAPOTOSTO: Object to form.

21 THE WITNESS: I believe the actual process
22 would have been Rob. Rob put together the
23 analysis. Nick checked it from a technical
24 perspective, and I reviewed it.

25

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<p style="text-align: right;">Page 137</p> <p>1 BY MS. BRAULT:</p> <p>2 Q. By the time you got it for review, all of</p> <p>3 the calculations had been completed?</p> <p>4 A. That's correct.</p> <p>5 Q. Was there anything else that you relied</p> <p>6 upon to reach the conclusion, the opinion that</p> <p>7 you've listed as No. 3 in your report that you</p> <p>8 haven't provided to us either in the body of the</p> <p>9 report, the exhibits or in the documents marked</p> <p>10 STAHL Exhibit 1 through 52?</p> <p>11 A. No.</p> <p>12 Q. With respect to Opinion No. 4, it says,</p> <p>13 "Increased participants' cost sharing leads to more</p> <p>14 cost-effective plan usage. Specifically, increases</p> <p>15 in cost sharing for brand-name drugs under the</p> <p>16 proposed plan have led to higher utilization of</p> <p>17 generic drugs and lower overall cost per</p> <p>18 prescription."</p> <p>19 That's your opinion?</p> <p>20 A. It is.</p> <p>21 Q. What is the methodology you used to reach</p> <p>22 that opinion?</p> <p>23 A. We were provided prescription drug claim</p> <p>24 data and number of prescriptions for the pre-65</p> <p>25 plans for both the grandfathered and</p>	<p style="text-align: right;">Page 139</p> <p>1 MS. CAPOTOSTO: Object to form.</p> <p>2 THE WITNESS: To the best of my knowledge, no.</p> <p>3 BY MS. BRAULT:</p> <p>4 Q. Do you intend to do any further analysis</p> <p>5 in support of any of these opinions?</p> <p>6 A. To the best of my knowledge, no.</p> <p>7 Q. The opinions that are included in one</p> <p>8 through four, these are your opinions, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you intend to develop any further</p> <p>11 opinions with respect to this case?</p> <p>12 MS. CAPOTOSTO: Object to form.</p> <p>13 THE WITNESS: No.</p> <p>14 BY MS. BRAULT:</p> <p>15 Q. Do you know what, in bargaining, the 2005</p> <p>16 retirees or those employees who were under the 2005</p> <p>17 plan originally, do you know what they got in</p> <p>18 bargaining that the class did not?</p> <p>19 A. When you say 2005, do you mean the</p> <p>20 non-grandfathered? The newer group?</p> <p>21 Q. Yes.</p> <p>22 Do you know what the non-grandfathered</p> <p>23 people got in bargaining that the grandfathered did</p> <p>24 not?</p> <p>25 MS. CAPOTOSTO: Object to form.</p>
<p style="text-align: right;">Page 138</p> <p>1 non-grandfathered group on a year-by-year basis,</p> <p>2 I believe, 2009 through 2013 -- I'm sorry -- 2010</p> <p>3 through the first half of 2013. We examined the</p> <p>4 two groups to see what portion of claims and costs</p> <p>5 fell -- cost per prescription fell into basically</p> <p>6 six categories: Generic, brand formulary, brand</p> <p>7 non-formulary and then also retail and mail. And</p> <p>8 we compared the costs in the utilization by</p> <p>9 category between the grandfathered and</p> <p>10 non-grandfathered groups.</p> <p>11 BY MS. BRAULT:</p> <p>12 Q. When you say "we," did you actually do</p> <p>13 that or did you get it after it had already been</p> <p>14 calculated?</p> <p>15 A. I got it after it had already been</p> <p>16 calculated, and I, again, reviewed the</p> <p>17 calculations.</p> <p>18 Q. Is there anything that you relied upon in</p> <p>19 reaching a conclusion or your opinion in No. 4 that</p> <p>20 isn't contained in your report, the exhibit or in</p> <p>21 STAHL 1 through 52?</p> <p>22 A. No.</p> <p>23 Q. Is it your intention to rely upon anything</p> <p>24 else in any future proceeding to support these</p> <p>25 opinions?</p>	<p style="text-align: right;">Page 140</p> <p>1 THE WITNESS: I don't.</p> <p>2 BY MS. BRAULT:</p> <p>3 Q. So when you are looking at a comparison of</p> <p>4 the plan, you are just looking at the plan elements</p> <p>5 of each of the plans, correct?</p> <p>6 MS. CAPOTOSTO: Object to form.</p> <p>7 THE WITNESS: I'm specifically looking with</p> <p>8 respect to the medical plans, is that --</p> <p>9 BY MS. BRAULT:</p> <p>10 Q. Right.</p> <p>11 When you are talking about cost, you are</p> <p>12 looking at what the costs are based upon the</p> <p>13 specific benefit elements?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. So, for example, if people in the</p> <p>16 proposed plan received RMSAs of \$7,500 in their</p> <p>17 notional account, that's not something that you</p> <p>18 looked at in terms of a plan comparison?</p> <p>19 A. That's correct.</p> <p>20 Q. And you didn't look at whether or not they</p> <p>21 received any kind of additional lump sum payment,</p> <p>22 special 65 lump sum payment for premium, to offset</p> <p>23 premium, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And you didn't look at anything that they</p>

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1 would have received by way of increased pension
2 benefits in that contract, correct?

3 **A. That's correct.**

4 Q. Or the step increases that they may have
5 received over the course of their contract,
6 correct?

7 **A. Correct.**

8 Q. So in terms of comparing the value of the
9 proposed plan and the current plan, at least your
10 evaluation of the differences does not include
11 whatever benefits the 2005 retirees might have
12 received that are considered either contractual or
13 pension benefits but not specific to the retiree
14 health care plan, correct?

15 MS. CAPOTOSTO: Objection. Form.

16 THE WITNESS: It does not.

17 BY MS. BRAULT:

18 Q. Does the fact of the Medicare Part D
19 program factor into your comparisons in any way?

20 **A. Yes, it does.**

21 Q. Tell me how.

22 **A. It's reflected when we try and figure out
23 what the out-of-pocket cost would be for retirees,
24 Medicare retirees, when the post-65 drug program
25 has been eliminated, in terms of determining what**

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1 **their out-of-pocket cost will be, the assumption is
2 made that they will purchase a Part D plan and then
3 will receive benefits, basic Part D benefits under
4 that plan, and that the balance of their
5 out-of-pocket costs would be basically what isn't
6 covered through a Part D plan.**

7 Q. Okay. I am going to ask you -- I am going
8 to go back to that, but I want to ask you, did the
9 Affordable Care Act factor into your comparisons in
10 any way?

11 **A. Only to the extent it exacted an excise
12 tax. There was some consideration of the excise
13 tax. There was no -- that's where it came into
14 and, I guess, also to the extent that affected the
15 benefits offered under the Part D plan itself. For
16 example, they are closing the donut hole by 2020.
17 So that was an effect of the Affordable Care Act
18 that was reflected in the projections.**

19 Q. Okay. And so the specific data that would
20 reflect the out-of-pocket cost to the retiree, can
21 you tell me which of these data files I would find
22 that?

23 **A. Historical actual out-of-pocket costs are
24 you referring to?**

25 Q. The one you said you considered the

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1 Medicare Part D program.

2 **A. It would be -- I'm not sure. Whichever
3 the one that has the projections that went into
4 Exhibits 5 and 6. I am not sure which document
5 that was. I think it was towards the end. The one
6 that says liabilities, liability summary.**

7 Q. This one here.

8 **A. I believe that's the one.**

9 Q. Is this the one you're talking about?

10 **A. Yes.**

11 Q. You are saying the out-of-pocket cost to
12 the post-65 prescription drug group is modified in
13 some way -- oh, I see your formula now.

14 Did you write that formula?

15 **A. I would have assisted Peter and Rebecca in
16 developing that formula.**

17 Q. So what you're doing is you're taking the
18 prescription drug cost from the current plan and
19 doing what to that formula?

20 **A. We are essentially -- what we are
21 attempting to do is take the total prescription
22 drug covered cost under the old plan for a post-65
23 retiree. We are subtracting off the percentage of
24 the cost that would be paid by that one minus the
25 Part D premium number there, that's basically, it**

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1 **would be saying that it would vary by year.**

2 **It might, in the first year, be 60 percent
3 of the cost. 60 percent of the drug costs are
4 expected to be covered under the Part D plan. So
5 it's subtracting that off the percentage and saying
6 the balance of that would be an out-of-pocket cost,
7 and then it's also including, as an out-of-pocket
8 cost, the Part D premium.**

9 Q. How are you determining what the premium
10 would be?

11 **A. If you tab down to the Part D tab there
12 is -- do you see the base beneficiary premium
13 projected forward?**

14 Q. Hold on. So is Part D premium projection
15 an actuarial value there?

16 **A. Right.**

17 Q. Okay. So for 2013 you've got base
18 beneficiary premium. Do you think that that's --
19 what is the base beneficiary premium?

20 **A. That is the average premium for
21 participants in Part D, for basic Part D premium
22 average in the U.S.**

23 Q. Did you look at it by geography?

24 **A. Did not. I don't believe it varies
25 significantly by geography.**

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<p style="text-align: right;">Page 145</p> <p>1 Q. Well, the plans do, don't they? You could 2 get a Part D plan that costs \$15 a month, and you 3 could get a Part D plan that costs \$150 a month. 4 A. There are -- this is base beneficiary 5 premium. It's the plan for the basic Part D plan, 6 not for an enhanced version. So it's the standard 7 set of benefits. 8 Q. Why does it have an actuarial value of 9 63.4 percent? I'm not understanding that. 10 A. That's the estimated percentage of cost 11 that would be covered under the Part D plan in 12 2013. 13 Q. What is this other box? 14 A. I believe that's a transposition of the 15 other values in such a way that they could line up 16 better with the other exhibits. 17 Q. Who is Shawn Maloney? 18 A. Shawn Maloney is another actuary in our 19 practice that specialized in retired medical and, 20 specifically, the prescription drug portion of the 21 benefits. 22 Q. What does Shawn Maloney have to do with 23 the --- 24 A. He helped us determine what was an 25 appropriate actuarial value to include as the</p>	<p style="text-align: right;">Page 147</p> <p>1 Q. And so one of the things that you said in 2 your opinions was that the medical plan provisions 3 of the proposed pre-65 plan compare favorably to 4 plan designs reflected in survey data, and it goes 5 on. 6 Did you compare the proposed plan to plans 7 with EGWPs for post-65 prescription drug coverage? 8 A. I did not. 9 Q. Why not? 10 A. We don't have -- the databases that we 11 have for retiree medical plans do not, I don't 12 believe, indicate whether they have EGWP or not as 13 part of the design. 14 Q. So several hundred or so employers, you 15 can't tell, but you don't think any of them have 16 EGWP? 17 A. I don't know how many may or may not have 18 EGWPs. It's not possible to determine from the 19 data. 20 Q. So the data is somewhat limited in terms 21 of making comparisons? 22 MS. CAPOTOSTO: Object to form. 23 THE WITNESS: It is limited for retiree plans. 24 The data -- you notice when you look at the data, 25 many plans have no plan whatsoever listed. So it's</p>
<p style="text-align: right;">Page 146</p> <p>1 prescription drug under the Affordable Care Act. 2 He referred to it as the donut hole is filled in, 3 and the benefit, Part D basic benefit, increases in 4 value to a maximum in 2020. 5 Q. Did you do a math model for EGWP? 6 A. As part of this analysis? 7 Q. As part of any analysis. 8 MS. CAPOTOSTO: Object and instruct not to 9 answer. 10 THE WITNESS: Have I ever done an analysis? 11 BY MS. BRAULT: 12 Q. For this plan. 13 A. We have looked at that particular funding 14 method. 15 MS. CAPOTOSTO: I am going to object and 16 instruct you not to answer based on the 17 work-product doctrine. 18 BY MS. BRAULT: 19 Q. Well, there are lots of ways to manage 20 costs in a plan, right? 21 A. Correct. 22 Q. And there are lots of different ways that 23 a plan could compare favorably to another plan, 24 correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 148</p> <p>1 much more difficult to draw conclusions from the 2 data that's there for the retirees. 3 BY MS. BRAULT: 4 Q. So that, indeed, limits your opinion in 5 two. Your comparison is to mostly active 6 employees, right? 7 A. The comparison of benefits? 8 Q. Yes. 9 A. Entirely active employees. 10 Q. So it's not to retirees on any level? 11 A. That's correct. 12 Q. Okay. Did you try to do any kind of 13 comparison to retiree plans? 14 A. It would have been, A, difficult to do 15 because of the way the data is, but also the 16 comparison, the database would show a significant 17 proportion of employers don't provide any retiree 18 medical benefits. So that would, right off the 19 bat, make the plan, any comparison of any plan that 20 provides benefits look better right off the bat. 21 So it didn't seem to be necessarily the best 22 comparison to use. 23 Q. Do you know of any benefit that the 24 retirees would receive from -- that switched from 25 the current plan to the proposed plan?</p>

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<p style="text-align: right;">Page 205</p> <p>1 did you collect data for only the years 2011 2 through 2013? 3 A. It wasn't a decision to limit it to that. 4 That's just the data that we have in this database 5 that's continually updated, and it happens at this 6 point in time the plan provisions are in there for 7 those particular years. 8 Q. And you were comparing, I think we've 9 already talked about that. You were comparing the 10 retiree plan to active plans? 11 A. Comparing the -- 12 Q. Pre-65? 13 A. Pre-65. 14 Q. And only the medical, right? 15 A. Medical prescription drug plans were 16 compared as well, but, yes, the database was an 17 active database compared against the CNH or the 18 proposed plan. 19 Q. But you didn't compare the current plan? 20 A. I did not compare the current plan. 21 Q. Wouldn't it have been a more -- if you 22 had, wouldn't it tell you something more about the 23 difference between the current plan and the 24 proposed plan if you compared both to the benchmark 25 data?</p>	<p style="text-align: right;">Page 207</p> <p>1 A. That's correct. 2 Q. You said that you used large employers, 3 correct? 4 A. Correct. 5 Q. What are large employers? 6 A. I am not aware of the exact definition. 7 You see that in terms of the average size of the 8 groups, there was the average was 19,000 employees 9 with a median of 5,000. 10 Q. Now, is that of total employees or covered 11 employees? 12 A. I believe that's total employees. 13 Q. Do you know how many of the total 14 employees are covered? 15 A. I don't. I don't know. 16 Q. So in looking at the benchmark data, we 17 don't really know whether or not the groups are 18 near the same size as our group? 19 MS. CAPOTOSTO: Object to form. 20 THE WITNESS: In terms of covered employees, we 21 don't know. 22 BY MS. BRAULT: 23 Q. And as far as the -- how many employees 24 does CNH have? 25 A. In round numbers, if I look at salaried</p>
<p style="text-align: right;">Page 206</p> <p>1 MS. CAPOTOSTO: Object to form. 2 THE WITNESS: I am not sure if that would tell 3 us more or not. I know that if we compared the -- 4 just based on what we were showing the percentiles 5 for the plans that are out there in the database, 6 comparing the current plan against that would 7 likely be maybe in the top 1 or 2 percent of plans. 8 So I don't know that that would provide -- be 9 particularly new information. 10 BY MS. BRAULT: 11 Q. Maybe I'm wrong here, but the way that you 12 phrased your conclusion on page 1 of your opinion, 13 you say, "The Medical plan provisions of the 14 proposed pre-65 plan compare favorably" -- 15 A. Can you tell me what page you are on? 16 Q. Page 1. 17 You say the "medical plan provision." Did 18 you mean to include prescription? 19 A. I was not intending to be -- to restrict 20 it to the medical plan provision. I was using it 21 broad. Quite common -- I was not intending to be 22 limited to the medical. I was -- should say 23 medical and drug plan provisions. 24 Q. But it is only for the pre-65 plan, 25 correct?</p>	<p style="text-align: right;">Page 208</p> <p>1 and nonunion and hourly and the UAW group, which 2 tend to be the groups I look at, it's in the 9,000 3 range, 10,000 range, I believe. 4 Q. I'm sorry. 9 to 10,000? 5 A. I believe, yes. 6 Q. Okay. Now, going to the -- would it be 7 fair to say you kind of split the proposed plan 8 into two pieces that would apply to the pre-65 and 9 that would apply to the post-65, and then you are 10 only comparing the pre-65; is that fair? 11 A. That's what we're doing. 12 Q. Looking at the basis of your opinion 13 comparison against the benchmark data -- I think 14 we've already talked about this -- what you did or 15 what your staff did was to look at specific benefit 16 provisions, not a constellation of benefit 17 provisions? 18 A. That's correct. 19 Q. And there isn't, as far as I could tell, 20 any data or comparison that would reflect what a 21 premium cost sharing would be for the benchmark 22 plans against the current plan? 23 A. That's correct. 24 Q. So just bear with me for a second. So one 25 of these benchmark companies may have a lower copay</p>

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<p style="text-align: right;">Page 217</p> <p>1 looking for that item in an active because that's 2 very, very rare in an active plan. 3 Q. You didn't compare -- even though you have 4 all of this data for retirees out there, that's not 5 what you compared, correct? 6 A. We didn't compare it against the retiree 7 data. That's correct. 8 Q. That was because it was too small? 9 A. It's because there are so many plans that 10 provide no benefit at all. 11 Q. How many plans do provide benefits under 12 this retiree field? 13 A. I didn't look. We could figure it out 14 but... 15 Q. Is that the separate database that you 16 were talking about or is that even a different one 17 that deals with collective bargaining agreements? 18 A. I believe this is the same. 19 Q. It's the same employers and then it 20 depends on whether or not they provide -- 21 A. When you say the separate database... 22 Q. Look at the screen where it says active -- 23 and this is STAHL 52 again. It says Actives All 24 Fields and Retiree All Fields, and then on A, we 25 have got names of employers. These are the same</p>	<p style="text-align: right;">Page 219</p> <p>1 A. Almost certainly not but I don't know. 2 Q. Okay. Can you tell from looking at the 3 benchmark data how many of those companies have 4 eliminated pos-Medicare prescription drugs in their 5 entirety? 6 MS. CAPOTOSTO: Object to form. 7 THE WITNESS: How many have -- 8 BY MR. BRAULT: 9 Q. Who have eliminated post-Medicare 10 prescription drugs in its entirety? In other 11 words, they provided it before Part D and then they 12 just eliminated it. 13 MS. CAPOTOSTO: Object to form. 14 THE WITNESS: You can't tell. 15 BY MS. BRAULT: 16 Q. I'm sorry. You can't tell? 17 A. You can't tell. 18 Q. You, obviously, have many benefit plans 19 that you provide services for, correct? 20 MS. CAPOTOSTO: Object to form. 21 BY MS. BRAULT: 22 Q. Between your eight to ten clients and all 23 of their various plans, right? 24 A. Correct. 25 Q. And then some special project and things</p>
<p style="text-align: right;">Page 218</p> <p>1 employers for active and retirees, right? 2 A. Right. 3 Q. Okay. That's what I was asking. 4 A. Yes, we would ask for data on both their 5 active and retiree plans. 6 Q. Okay. Is there any indication here 7 whether or not the benefits are found to have been 8 vested? 9 MS. CAPOTOSTO: Object to form. 10 THE WITNESS: I don't know. 11 BY MS. BRAULT: 12 Q. Do you know if there is any indication in 13 here whether or not there is a valid reservation of 14 rights clause in this contract? 15 A. I don't know. 16 Q. Do you know if there is a data point in 17 STAHL 52, the benchmarking data, that would 18 indicate whether or not there was a promise that 19 the benefit would be provided to the retiree at no 20 cost or the active at no cost? 21 A. I don't know. 22 Q. Is there an indication whether or not the 23 benefit is subjected to any kind of pending legal 24 challenge or had been subjected to the legal 25 challenge or anything like that?</p>	<p style="text-align: right;">Page 220</p> <p>1 like that? 2 A. Yes. 3 Q. How many benefit plans do you provide 4 services for that made a decision to eliminate 5 Part D coverage when Part D was introduced? 6 A. Eliminate prescription drug coverage? 7 Q. Yes. 8 A. I can't give you an exact number, but 9 there was at least one that eliminated it 10 immediately. There has been at least several 11 others that have eliminated it subsequently, and 12 then there has been many others that are -- not 13 many -- but others beyond that that have changed 14 their benefit so that it's not a defined benefit 15 plan or it doesn't define the medical benefits or 16 the prescription drug benefit. It provides a 17 defined dollar subsidy that the retiree can take to 18 the market and buy whatever plan they want. 19 Q. Do you know if CNH, for the 2005 group, 20 instituted a defined subsidy for them so that they 21 could go out and buy the Part D coverage on the 22 market? 23 A. Do I know if they did? 24 Q. Yes. 25 A. To my knowledge -- well, I don't know that</p>

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<p style="text-align: right;">Page 225</p> <p>1 are not in here as far as I could find them. They 2 are not in here under Case. Maybe CNH? No. 3 Let's talk about the "Covered Services and 4 Prescription Drugs." I don't want to repeat what 5 we already did on this. You say, "A high 6 percentage of the actual cost for medical and 7 prescription drugs for the current plan over the 8 period 2008 through 2012 involved procedure codes 9 or drugs that did not exist in 1998." 10 And then you have a conclusion sentence, 11 "As a result, the proposed changes are reasonable 12 in the light of continuing changes in the cost and 13 delivery of health care," correct? 14 A. Correct. 15 Q. Is your statement, "As a result, the 16 proposed changes are reasonable in light of 17 continuing changes in the cost and delivery of 18 health care," dependent upon your premise here 19 relating to the high percentage of actual cost of 20 medical and prescription drug cost not existing in 21 1998? 22 MS. CAPOTOSTO: Object to form. 23 THE WITNESS: The premise is that additional -- 24 all medical plans are worded in such a way that 25 they pick up those costs automatically. So they</p>	<p style="text-align: right;">Page 227</p> <p>1 that it never happens, then, perhaps, that would 2 undercut it entirely, I believe, but to the extent 3 that you could show that there are certain codes 4 that don't represent increases, then that would 5 certainly lessen the impact of the new procedures. 6 BY MS. BRAULT: 7 Q. Okay. We'll talk about that. In the 8 basis for your opinion you talk about medical 9 procedures since 1998, right? 10 A. Yes. 11 Q. You say that Exhibit 8 shows medical 12 expenses for 2009 through 2012 broken down between 13 services for codes that existed and services for 14 codes which did not. That all came out of Anthem? 15 A. That came out of the codes themselves that 16 were contained on the Anthem database and that we 17 have separate -- RBRVS filed it and the codes from 18 1998. 19 Q. And those were the -- we were looking at 20 those two files that were too big to open, and 21 without really causing problems, the note files, 22 that's in sort of the raw data form? 23 A. To be honest, I am not sure that those 24 were even summarized in the two files that are too 25 big to open. They were in the Notepad files.</p>
<p style="text-align: right;">Page 226</p> <p>1 are, of necessity, covering services that were not 2 originally available in any given base year and 3 that they are covered as long as they are medically 4 necessary in the future. 5 BY MS. BRAULT: 6 Q. So would you agree with me that your 7 conclusion is dependent upon the proposition in 8 your first sentence that if the procedure code or 9 drug didn't exist in 1998, then it's a change -- 10 well, let me strike that. 11 Other than the code not existing or the 12 drug not existing in 1998, is there any other 13 reason or basis for your conclusion that that 14 medical procedure or prescription drug did not 15 exist? 16 MS. CAPOTOSTO: Object to form. 17 THE WITNESS: No. 18 BY MS. BRAULT: 19 Q. So if we were to show that it's not true 20 that a code change always represents a 21 technological advance in medicine, then to the 22 extent we can show that, it would not support your 23 conclusion, correct? 24 MS. CAPOTOSTO: Object to form. 25 THE WITNESS: I think that if you could show</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. They are in the Notepad files? 2 A. Yes, it would be in the Notepad files. 3 Q. The Anthem summaries are in 19 and 20, and 4 they are 47,000 and 46,000 kilobytes each. And 5 every time we try to open them, it crashes 6 everything. 7 It may take a little while, but we are 8 currently trying to open STAHL 39C. There we go. 9 So 39C is a Notepad document that has a bunch of 10 sort of raw data. Do you know which one of these 11 is the code information? 12 A. I don't know off the top of my head. 13 Q. You never tried to match a particular code 14 to any particular procedure, correct? 15 A. I did not personally. 16 Q. Okay. Are you familiar with the CPTs or 17 the coding system that are used? Is that something 18 that's familiar to you? 19 A. Not particularly. 20 Q. Do you know what they use them for? 21 A. To -- not specifically. 22 Q. You report that approximately 24 percent 23 of the records did not have a code and costs for 24 those claims are shown separately? 25 A. Correct.</p>

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1 Q. Okay. So the logic here is that if the
2 procedure code didn't exist in 1998, then that
3 procedure or service didn't exist. So the fact
4 that it exists now represents a technological
5 advance and a benefit that or a service that could
6 not have been provided under the original contract
7 because it didn't exist, right?

8 **A. Yes. That's the general logic, yes.**

9 Q. Do you know how new codes are initiated?
10 Do you know how new codes come into use?

11 **A. No.**

12 Q. Do you know if some new codes are
13 reclassifications of existing codes rather than new
14 procedures?

15 **A. No.**

16 Q. Do you know who develops and publishes the
17 codes?

18 **A. I don't know the organization myself, no.**

19 Q. Do you know why codes get changed?

20 **A. No.**

21 Q. Do you know how often a change in code is
22 just a re-definition of an existing code?

23 **A. No.**

24 Q. Do you know how much of the 25 percent
25 or -- well, do you know how many of the codes that

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1 suturing of puncture wounds is a new technology or
2 a new service that wasn't available to the patient
3 prior to the unbundling of the code; would you
4 agree with me?

5 **A. I would agree.**

6 Q. Do you know what a comprehensive metabolic
7 panel is?

8 **A. I do not.**

9 Q. Let's talk a little bit about prescription
10 drugs. In your report you talk about prescription
11 drugs that were not available in 1998?

12 **A. Yes.**

13 Q. Did you do any studies to determine
14 whether or not the prescription drugs that were
15 determined to be not available in 1998 existed in a
16 brand name form prior to 1998 as opposed to a
17 generic form?

18 MS. CAPOTOSTO: Object to form.

19 THE WITNESS: I did not.

20 BY MS. BRAULT:

21 Q. Are the drugs listed and analyzed by the
22 drug name?

23 **A. I don't know.**

24 Q. I think you gave me the example of Nexium?

25 **A. I don't know what was on the Power Point**

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1 you tracked as being not in existence in 1998 had
2 maybe a bundled code prior to 1998 that then was
3 unbundled after 1998 to include many different
4 codes?

5 **A. I don't know.**

6 Q. One of the codes that you reported on was
7 a Code 29827. Exhibit 8.

8 Do you know that there was a code for
9 example, sutures, for puncture wounds before 1998?

10 **A. No.**

11 Q. Do you know that after 1998 they revised
12 the codes to include codes that would capture
13 sutures for puncture wounds, one puncture and
14 another code for sutures for puncture wounds, two
15 punctures and another code for suture wounds, three
16 punctures? Are you aware of some of the changes in
17 the code being based upon that kind of unbundling?

18 MS. CAPOTOSTO: Object to form.

19 THE WITNESS: I'm not aware of that.

20 BY MS. BRAULT:

21 Q. That's not part of what you studied here?

22 **A. Correct.**

23 Q. Would you agree with me that if you had
24 different codes to separate out number of puncture
25 wounds you were suturing isn't an indication that

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1 **file, if there was actual drug code or just a name.**

2 Q. Because you didn't do that work?

3 **A. I didn't -- I didn't directly do that work**
4 **myself. I can't recall. I believe they used the**
5 **name.**

6 Q. Can we look at it?

7 **A. Sure.**

8 Q. Where would I look; do you know?

9 **A. Scroll up until you see the Power Point.**

10 Q. This one maybe?

11 **A. Sure.**

12 Q. We are looking at STAHL 10.

13 **A. This one use the slider at the bottom.**

14 Q. So it look like it's by drug name,
15 correct?

16 **A. Correct.**

17 Q. And it indicates whether it's formulary or
18 not?

19 **A. Yes.**

20 Q. What is formulary?

21 **A. It is a group of drugs established by the,**
22 **in this case, ESI where they obtain favorable**
23 **pricing on those particular drugs. There are lower**
24 **copays for those drugs as opposed to a**
25 **non-formulary drug.**

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<p style="text-align: right;">Page 233</p> <p>1 Q. Do you know when Viagra was released on 2 the market? 3 A. I do not know that. 4 Q. Do you know if any of these were drugs 5 that were created before 2004 when the -- or 2005 6 when the contract expired? 7 A. No, I don't. 8 Q. So do you know what the time limitation is 9 for a patent for a drug? 10 A. No, I don't. 11 Q. Do you know that drug patents only last 12 for 15 years? 13 A. No. 14 Q. If I told you that, would that affect your 15 analysis of this in any way? 16 A. No. 17 Q. Do you know if sometimes what happens is 18 in the industry that there are variations made to 19 patented drugs under different names so that the 20 patent can be increased but the drug basically does 21 the same thing? 22 A. No. 23 Q. Would you say that it's true that some new 24 drugs are generic versions of previously existing 25 drugs?</p>	<p style="text-align: right;">Page 235</p> <p>1 plan for prescription drugs, wouldn't you agree? 2 MS. CAPOTOSTO: Object to form. 3 BY MS. BRAULT: 4 Q. Wouldn't you agree it's likely people 5 would be thinking about the fact that there would 6 be new drugs that would be covered by a 7 prescription drug plan in the future? 8 A. All medical and drug plans are inherently 9 written that they cover medically necessary drugs. 10 So they sort of inherently expand their coverage to 11 cover new treatments and drugs. 12 Q. So you could write a plan that said we are 13 only going to cover drugs that are available now, 14 right? 15 A. I've never seen one written that way. So 16 I'm not sure if it could be done. 17 Q. I mean it would probably be more expensive 18 over time, right, if you made a comprehensive list 19 of the drugs that could be used and then set it and 20 said there couldn't be any changes? 21 MS. CAPOTOSTO: Object to form. 22 THE WITNESS: I don't have any view as to 23 whether that would be more expensive or less 24 expensive. 25</p>
<p style="text-align: right;">Page 234</p> <p>1 MS. CAPOTOSTO: Object to form. 2 THE WITNESS: I wouldn't have any knowledge of 3 that. 4 BY MS. BRAULT: 5 Q. Okay. And some new brand name 6 alternatives are alternatives to brand name 7 existing drugs? 8 MS. CAPOTOSTO: Object to form. 9 THE WITNESS: I don't. I don't know. 10 BY MS. BRAULT: 11 Q. That wasn't something that you looked at 12 either? 13 A. (Witness nodding head.) 14 Q. Would you agree that some new drugs treat 15 previously untreatable illnesses so they would 16 replace medical costs? 17 A. I would agree certainly that some new 18 drugs treat previously untreatable illnesses. 19 Q. Isn't it true that there were new drugs 20 coming out -- I mean there have been new drugs 21 coming out all the time for decades, really; would 22 you agree? 23 A. I would agree. 24 Q. And that's something that people were 25 certainly contemplating when they came up with a</p>	<p style="text-align: right;">Page 236</p> <p>1 BY MS. BRAULT: 2 Q. Okay. I am going get to your last part of 3 this. 4 MS. CAPOTOSTO: Would it be a good time for us 5 to take a very brief break. 6 MS. BRAULT: Can we do very brief because I'm 7 not going to be much longer. I don't want to say 8 I'm not going to be much longer. I'd like to get 9 done as quickly as I can, obviously, for everyone's 10 sake. 11 (A short break was taken.) 12 BY MS. BRAULT: 13 Q. Would you agree that a preferred way to 14 accomplish more cost effective Medicare -- I'm 15 sorry -- prescription drug usage is to provide a 16 voluntary choice as opposed to schedule that 17 doesn't allow you to minimize the cost effect? 18 MS. CAPOTOSTO: Object to form. 19 MS. BRAULT: Bad question. I'll try again. 20 BY MS. BRAULT: 21 Q. We talked earlier about the different ways 22 that you can modify a prescription drug plan to 23 encourage better or more cost effective consumer 24 behavior, right? 25 A. Yes.</p>